
THE PHENOMENON OF MONEY LAUNDERING
Whose money is dirty and what are the effects?



Master's thesis

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ABSTRACT

Money laundering is a concept, which still is rather criminal or business than anything else in most of us minds. Jendem Oy Ltd. as a consulting company found it interesting to explore more the phenomenon of money laundering. This work is about giving more understanding about what is criminal, what is not, but harmful and how much tax income is lost.

We use hermeneutical philosophy to clarify and find new ways to interpret and find the relationships between the issues and to understand the phenomenon more widely. Instrumentalistically to offer results to widen the understanding of the phenomenon. The research strategy is qualitative.

There was plenty of material to use. There is reports, statistics, books, newspaper articles, etc. The material was gathered by grouping them in different themes, having the idea, to form a wide view and understanding. While writing this we find news about big corporations avoiding taxes using tax agreements in Luxemburg. In this work we bring out many similar cases.

The tax avoidance and evasion has a huge meaning for every countries economics. Today there is a recession and difficulties in treasuries. Tax incomes and jobs would be more than welcome.

Keywords

Money laundering, tax avoidance, tax evasion, free market economy and globalization.

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TIIVISTELMÄ

Rahanpesukäsite yhdistetään yleisesti rikollisjärjestöihin ja rikolliseen liiketoimintaan. Se, miten se tapahtuu ja kuka sitä tekee, ovat melko etäisiä tavalliselle kadun-miehelle ja naiselle. Jendem Oy Ltd. toimii taloushallinnon ja yrittämisen konsultoinnin alueella. Yrityksen toiminta-alaan kuuluu myös vapaamuotoinen taloustilanteen seuraaminen, ennustaminen ja yrittämiseen liittyvien mahdollisuuksien hahmottaminen. Tästä syystä käsite rahanpesu ja sen katvealueet herättivät mielenkiinnon asian tarkempaan tutkiskeluun ja ymmärtämyksen tuottamiseen.

Tavoite on tuottaa laajaa näkemystä asiaan ja siihen, miten vaikeaa on erottaa rikollinen toiminta laillisesta. Tätä kirjoittaessa lehdissä puhutaan Luxemburgin valtion verosopimuksista, joissa tietyt suuryritykset välttyvät maksamasta veroja. Tällaisia tapauksia otetaan työssä esille muitakin. Niiden vaikutus ei ole vaan kilpailua vääristävä, vaan myös markkinatalouden toteutumattomuus ja kaikenlainen eriarvoisuus. Työ sisältää myös läpikäynnin täysin rikollisen rahanpesun kaavoista ja määritelmän, mikä täyttää rahanpesun tunnusmerkistöt. Eli työssä käsitellään sekä rikollinen, että monomutkikkaat verosuunnittelu prosessit, joiden molempien lopputulos on välttää verojen maksu. Toisen tavoite on tietenkin myös häivyttää rikollisen toimintansa alkuperä, mutta kuitenkin myös välttää säännöstelyä, lailta ja velvoitteilta, mitä yhteiskunta yritystoiminnalle on säättänyt.

Ongelman asettelu lähtee ilmiön kuvaamisesta ympäristössään. Eli ollen jonkinlainen hermeneuttinen filosofia, jossa pyritään hahmottamaan asioita ja niiden kontekstien välisiä suhteita, löytääkseen uudelleentulkittamista ja laajempaa ymmärrystä ilmiöstä. Siinä korostetaan merkityksiä sisältävien kokonaisuuksien ymmärtämistä ja tulkintaa. Tutkimusstrategia on laadullinen. Aineistoa on haettu tavoite kriteerien mukaan. Virallisia tutkimuksia, raportteja, oikeuden pöytäkirjoitteita, alan kirjallisuutta, lehtiartikkeleita jne. Tietoa ja tapauksia on ollut saatavilla todella runsaasti. Aineiston analysointimenetelmä on luokittelu.

Materiaali selkeytti kuvan, että kaikenlainen verojen välttely merkitsee kansantaloudelle paljon. Jos pelkästään rahanpesua arvioidaan tapahtuvan n. 5 % maailman bruttokansan tuotteen arvoinen summa vuosittain, niin paljon suurempi menetys veron keruussa syntyy erilaisia verottomia paikkoja käyttäessä, veroparatiisit. Tieto lisää ymmärtämystä ja sitä kautta voidaan tehdä korjausliikkeitä, jotta vapaa markkinatalous toteutuisi ja yrittäminen olisi mielekästä.

Avainsanat Rahanpesu, verojen välttäminen, veronkierto, globalisaatio, vapaa markkinatalous.

Sivut 78 s. + liitteet 10 s.

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Appendix 1 Luovutussopimus

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en

Appendix 3 E-mail Kannus/Ylikangas

1 INTRODUCTION

1.1 The use of this report

Jendem Oy Ltd. is a small company, mainly dealing with accounting for small companies. It also analysis and investigates phenomenon covering future, economy, free market etc. This report is made because the world's economy has changed during the years so that the small businesses suffer even more of profitability, meaningfulness and possibilities. Unemployment increases in Finland as well as in other EU countries, US and in many other continents. Banks open-handed lending has offered opportunities without true basis. Therefore the consuming has been high to give jobs and nice lifestyle. Where does this lending money truly come from? Where ever it comes don't make a difference. The more meaningful question is, that have it been earned by paying taxes like the borrowers do. We hope that this work will give an understanding of how much tax earnings is lost every year and how it is done. That way there is a chance to make changes.

1.2 The background for the questions of the topic

There is a term money laundering. How many understand what it is and how it works? Many books have been written about the subject of money laundering. The term money laundering has its history. If the definition includes words like "fight against it", the history started since the days of Prohibition (during the years 1920-1933) in the USA (Hopton 2009, 1). If the definition includes words like "organized crime" the history could start from the estimated beginning of the Chinese Triad. The triad society is believed to be a secret organization founded by a group of monks in the Shaolin Temple in China in the mid-seventeenth-century. Their aim was to overthrow the alien Qing government with their superior military skills and return the native Chinese Ming dynasty. The Grand Secretary of the Qing Council's troops set the Shaolin Temple on fire. Only 5 monks of 128 survived from the fire. The five monks founded five lodges in different parts of China to carry on their society. In the nineteenth century, the second lodge Samhelhui became very powerful and influenced in Hong Kong and overseas Chinese communities in Southeast Asia and North America. They were called Triad by the western observers. In 1911 the Qing dynasty ended and the Republic of China took over. The original goal was achieved and the triad societies withdraw from the political scene. This legend has been told from generations to generations. What is more than a legend is that the triad society was established in 1674. (Chu 1999, 11-14.) Today it is known as a Chinese criminal organization which has about 100.000 members (estimated) and a turnover \$ 200 billion per annum (dirtydealing.org).

Talking about money laundering the Chinese triads is one organization from the history. There are other organizations too, like the Columbian cartels, Mexican cartels, Russian mafia, Japanese Yakuza, Italian Mafia,

Turkish and Kurdish gangs, Nigerians, Hellø Angels/biker gangs and Balkan gangs (dirtydealing.org).

Are there other big players on the market? That depends on the question, what is illegal, where it is illegal, who are doing it, how they do it and why they do it?

1.3 The volume and economy

According to United Nations Office on Drugs and Crime the estimated amount of money laundered globally in one year is 2-5% of global GDP, which is \$800 billion - \$2 trillion, equals p1, 6 trillion (thatø a staggering \$2,000,000,000,000) (UNODC United Nations Office on Drugs and Crime, 2012). United States GDP was in 2010 \$15 trillion and EUø GDP was \$16 trillion in 2010 (The World Bank, 2012). Is the world economy depending on the laundering money? What could happen if that would stop and the origins of all the laundered money would be found and the money returned to its legal position? How much is there ødirtyö laundered money involved in the worldø economy system?

Antonio Maria Costa, a former head of the UN Office on Drugs and Crime, said that he has evidence that the earnings of the organized crime were the only liquid investment capital available for some banks and saved them from collapse in the fall 2008. He said that a majority of the \$352 billion (\$ 352,000,000,000,000 equals p 292 billion) of drugs profits was attached into the economic system as a result. Costa said, øInter-banks loans were funded by money that originated from the drugs trade and other illegal activities .There were signs that some banks were rescued that wayö (Guardian , 2009). That was the time when banks were unwilling to lend money to one another. The Guardian continues, øThis will raise questions about crimeø influence on the economic system at times of crises. It will also prompt further examination of the banking sectors as world leaders, including Barack Obama and Gordon Brown, call for new International Monetary Fund regulationsö. The evidence that drug money was moved into banks came from officials in Britain, Switzerland, Italy and US. (Guardian , 2009).

According to Reuters, Italian Banks are upset with the level of cash use; øunderground economy 22 % of GDP ö (Reuters, 2011). Reuters continue in 2012, that the Mafia is øItalyø No.1 bankö as crisis bites the small businesses and the banks are unwilling to lend money (Reuters, 2012).

In UK the HM Customs and Excise (UKø tax authority) estimates that the annual proceeds from crime are in the region of £ 19 billion to £ 48 billion (p 62 billion). Home Office estimates that about £ 2 billion of the profits of crime remain within the UK while about £ 3.3 billion is sent overseas. (House of Commons Library 2007,7.)

A mafia expert Francesco Forgione, who is also a former president of the anti-Mafia parliamentary commission, wrote a book called Mafia Export.

In the book Forgione wonders; øhow it is possible that all commercial sectors have so willingly taken Mafia based capital?ö Mafia has holding companies which provide financing. Forgione writes that Mafia can influence governmentsø decisions, financial systems and the market. The runners of multinational and national institutions and politicians have devel-

opened an explanation for the market situations, which works for ordinary people. That is the natural law of a market. (Forgione 2009, 36.)

1.4 The fight against it

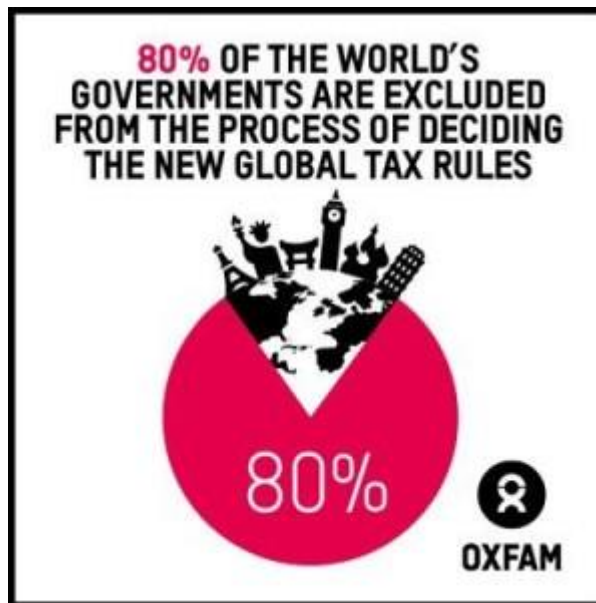


Figure 1 who wants to stop tax avoidance (Financial transparency, 2014)

What part does the money laundering play in the world's economy and normal business? Do ordinary people know who the participants are in the laundering business? Are we all involved or is it only some mafia people who launder? How can an entrepreneur, a company or a person avoid and minimize the risk of being a part of laundering process bona fide; not knowing? There are many books, studies, measures and investigations about money laundering. There is very much information about the subject, yet it goes on year after year.

The UNODC, United Nations Office on Drugs and Crime, have studied and measured world's money laundering for years. The office has tried to put an end to it, without any crucial results. There is a worldwide legislation for criminalizing money laundering.

The Financial Action Task Force; FATF, is a policy-making body, which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas (FATF, 2012). FATF was established in 1989 at the Organization for economic Co-operation and Development's, shortened OECD, economic summit held in Paris (Hopton, 2009, 8). FATF has 35 country members as well as European Commission and Gulf Co-operation Council. All the significant organizations around the world on the area of finance and money laundering are Associate Members and FATF Observers (FATF, 2012.)

There are 8 FATF Style Regional Bodies; FSRBs:

1. Asian-Pacific Group on Money Laundering; APG
2. Caribbean Financial Action Task Force; CFATF
3. Eurasian Group; EAG, Eastern and Southern Africa Anti Money Laundering Group; ESAAMLG

4. Financial Action Task Force on Money Laundering in South America; GAFISUD
5. Intergovernmental Action Group against Money Laundering in West Africa; GIABA
6. Middle East and North Africa Financial Action Task Force; MENAFATF
7. Middle East and North Africa Financial Action Task Force; MENAFATF
8. Committee of Experts on the Evaluation of Anti Money Laundering Measures; MONEYVAL (Gopac, 2012.)

Egmont Group of Financial Intelligence Units in Brussels fight against money laundering and financing of terrorism promotes the execution of domestic programs in the field. It has institutional members FIUs (financial intelligence units) from all over the world, like RAP (in Finnish Rahanpesun selvittelykeskus in Finland). (The Egmont Group of Financial Intelligence Units, 2013.)

International Monetary Fund (IMF) has 187 member countries and is specialized independent agency of the United Nations. It promotes international monetary cooperation. This way it tries also to tackle corruption and money laundering. (International Monetary Fund, IMF, 2013.)

Interpol is the world's largest international police organization. It has 188 member countries. It acts against corruption and terrorism and other international crimes. It has a special group called Group of Experts on Corruption (IGEC). (Interpol, 2013.)

Transparency International is a global civil society organization acting also against corruption. It gathers people together in a worldwide coalition in order to end corruption. They work through more than 100 national chapters worldwide, which work with governments and civil societies. (Transparency International, 2013.)

UNODC a United Nations entity mentioned here before fights against drug and international crime. Have 54 field offices around the world, covering more than 150 countries. (UNODC, Objectives, 2012.)

The World Bank works in the field of financial and technical assistance to developing countries around the world. They fight against poverty. It has more than 100 offices and 187 member countries worldwide. It has its programs on Anti-Money Laundering and Combating the Financing of Terrorism, shortened as AML/CFT. (World Bank, 2013.)

There are many continental and national organizations in every country to control and avoid money laundering. The question is, have they made much progress in stopping money laundering?

1.5 Globalization

“Globalization opens many opportunities for crime, and crime is rapidly coming global, outpacing international cooperation to fight it.” (United Nations 1999, 54).

Michel Chossudovsky is an award-winning author, Professor of Economics (Emeritus) at the University of Ottawa and Director of the Centre for Research on Globalization, shortened as CRG, Montreal. He is the author of *The Globalization of Poverty* and *The New World Order* (2003) and *America's "War on Terrorism"* (2005). He is also a contributor to the En-

cyclopaedia Britannica. (Michel Choussudovsky, 2012). Choussudovsky writes about globalization like this: "War and globalization go hand in hand. Supported by America's war machine, new deadly phase of corporate-led globalization has unfolded. In the largest display on military might since the Second World War, the United States has embarked upon a military adventure; which threatens the future of humanity." (Choussudovsky 2003, XXIV.)

The European integration allows free movements of goods, capitals, services and people. That means enormous growth of making business within the EU (Schengen Agreements 1985-95). Borders no longer exist in Europe.

2 METHODS AND MATERIALS

2.1 The Problem setting

The research problem starts from a need to illustrate the phenomenon as it is in the world. That leads to questions like 1. What is money laundering, 2. How does it appear and 3. What meaning does it have in the world's economy? 4. Can the laundering be stopped or decreased. 5. What is legal and what is not? 6. What are the losses? 7. Who lose and who win?

2.2 The research strategy

In order to illustrate the phenomenon as it is and how it has developed in the world, the strategy for that research is qualitative. When illustrating the phenomenon deeper and more critical, the strategy for the reach is phenomenology. In phenomenology it is possible to approach the subject without predetermined default or frame of reference. Phenomenological approaches are good at surfacing deep issues and making voices heard. It is a way to bring into question and observe. If the object can be understood more like an understanding of something the strategy is more hermeneutical. A hermeneutical philosophy is used to clarify and find new ways to interpret and find the relationships between the issues and to understand the phenomenon more widely. Instrumentalisticly to offer results to give people more understanding of the meaning of the phenomenon. Therefore there it is hard to draw a clear line what the strategy is. The three strategies combination was necessary to observe, open, widen and understand the phenomenon. (Jyväskylän yliopisto 2014).

2.3 The research material

The material used for this reach is mainly documents of all kinds. It consists of legislation, books, articles, web-sites, documents of different cases and statistics. The legislation is found from EURLEX the European Union Laws, United Nations the Conventions and FINLEX the Finnish legislation. The statistics comes from UNODC (abbreviation of United Nations Office on Drugs and Crime), the World Bank and Finnish Police National Bureau of Investigation, etc.. There are many books and articles about this subject. Some articles are made by The Special Division of the United States Court of Appeals for the District of Columbia Circuit, The Federation of American Scientists, shortened FAS, The Committee on Foreign Relations United States Senate and UNODC and many others. These organizations have also web-sites which are used. These are to name only few of many sources.

2.4 The method of analyzing the material

The first step has been to collect the data, the material as mentioned in the topic 2.3 Research material. After that the data needs to be classified by different themes. This kind of thematic analysis helps to see a pattern to emerging. The idea is to find a certain phenomenon within the material. That method will help to illustrate the phenomenon as it is. The material taken under research is a subjective decision, because a phenomenon needs to be understood deeper. Also the material found has given a many new paths to follow. One of them was the understanding that there is a huge amount of questionable but legal ways to avoid all kinds of rules and taxes. All it needed to do was to follow the new paths and the results where self-evident.

2.5 The philosophical trend

What is the ideology and the point of view, this research has chosen? Understanding macro economy from another point of view. In this work few trends are useful. The trend is a mix of constructivism, hermeneutic and phenomenology. The big ideology is to provide information available, to give the reader a broader picture if not very well known so far. The material is gathered and provided to give the reader a substantial frame and to understand the subject in various contexts.

2.6 Limitations

This research is not a legal output. The legislations are brought out so that the laundering definition is supported by it. In order to understand different cases the legislation is a necessary subject. This research stress more the criminal money laundering, the need to hide the source of the money, more than the need to hide the destination of the money. In another word the work does not stress the terrorist money hiding. The biggest limitation is that only some of the material and cases could be taken in this material. There is a huge world out there which concerns this topic, which is for everyone to find. Also some big cases are under investigation and not officially yet good enough for this report.

3 DEFINITIONS

One can find similar definitions in many official sources. They contain the basic structure of illegal proceeds and how it is transferred through financial system to cover its sources. Later in chapter 8 a term arbitrage is handled. That is an interesting area, because it is a serious matter when we take the definition of tax avoidance in use. As Professor Ronen Palan, Richard Murphy and Christian Chavagneux in their book *“Tax Havens: How Globalization Really Works (Cornell Studies in Money)”*, write that legally there is a clear difference between evasion and avoidance. The problem is that how the court rulings handle that. (Palan, Murphy & Chavagneux 2010, 10.)

3.1 Illegal or illicit and evade or avoid

Before going any deeper into the definition of money laundering we need to define the term illicit and illegal as well as evade and avoid. Illicit is a complex term. It is defined by the Shorter Oxford English Dictionary as meaning “not allowed; improper; irregular; unlawful; esp. not sanctioned by law, rule or custom. Illegal is defined by the Webster.com “not allowed by the law: not legal, not allowed by the rules in a game”. There is therefore a difference between the true illegal operation and illicit one, but they both give the operator benefits. In the case illicit operation the benefit is most often to avoid paying taxes. Evading taxes is illegal by the definition of illegal and avoiding taxes is tax planning. The later chapter 8 Arbitrage deals more with the cases that are illicit and more or less tax planning with another word avoiding taxes.

3.2 Money laundering

Money laundering is considered to be a process by which criminals try to hide the origins and ownership of their criminal activities. The criminals try to disguise the source of their income and wealth. This led that the general belief of money laundering is one or all of the following definitions. First definition is turning dirty money into clean money, the second is that it’s washing drug money and the third is that it is disguising criminal money. (Hopton 2009, 5.)

These definitions miss the point, that money laundering happens every time any transaction takes place or relationship is formed which involves any form of property or benefit, whether it is tangible or intangible which is derived from criminal activity (Hopton 2009, 6). This differs from the three definitions above by adding other objects than money.

Money does not have to be criminal or dirty in the starting point of the process. A classical case is tax avoidance. Money is earned legitimately and placed into bank account in another country. If the account holder fails to declare this income on a tax return in the country in which it was earned, the funds become laundering funds and the bank may be unaware

of it. Another case is when the criminals objectives are to avoid detection, prosecution or confiscation of their ill-gotten gains. (Hopton 2009, 6.) These cases show that money laundering can happen in many ways. In the definition of money laundering UNODC adds the terrorists and their similar laundering needs to hide their money. The terrorists are not concerned with hiding the origin of money; they are concerned with hiding its destination and purpose for which it has been collected. (UNODC, Objectives, 2012.)

Money laundering is the process by which criminal incomes are disguised to hide their illicit origins and to keep the income for use. Criminals will attempt to separate themselves from their crimes by finding safe places for their profits where they can avoid confiscation orders, and where those profits can be made to look legal. (Basel Institute on Governace, 2012.)

Turning dirty money into clean money	Turning dirty tangible or intangible property or benefit into clean one	Avoidance
<ul style="list-style-type: none">•a process of hiding the origins and ownership of criminal activities•The criminals disguise the source of their income	<ul style="list-style-type: none">•the cleaning process concerns other objects than only money	<ul style="list-style-type: none">•Tax avoidance•Avoidance of detection, prsecution or confiscation

Figure 2 Definitions

There are different types of money laundering offences. A mixed case is where money laundering is charged with the underlying proceeds generating predicate offence. Predicate offence means that the former crime included the later. These can be further divided into cases which involve "own proceeds" or "self laundering", where the defendant in a money laundering case may also have committed the predicate offence, and those cases where the laundering is by a person who has not committed the predicate offence. In cases where money laundering is the only charge capable of being prosecuted, these can also be divided into cases where the offender is laundering his own profits of crime, and those where the laundering is carried out by a person other than the performer of the predicate offence. (Basel Institute on Governace, 2012.)

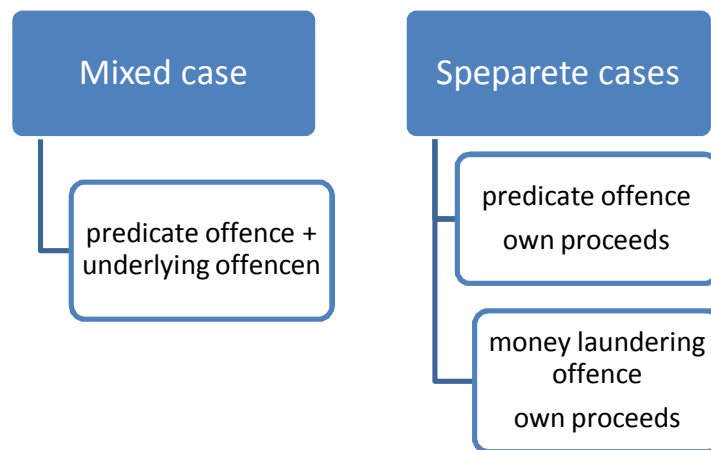


Figure 3 Offences

When laundering criminally earned money, it can involve many outside parties. Money laundering cases include many types of offences. In money laundering cases the prosecution has to prove three elements. First is that the transaction involving property happened. Second is that the property is the profit of a crime. The third element is that the offender (criminal) knows or suspects that the property is the profit of a crime.

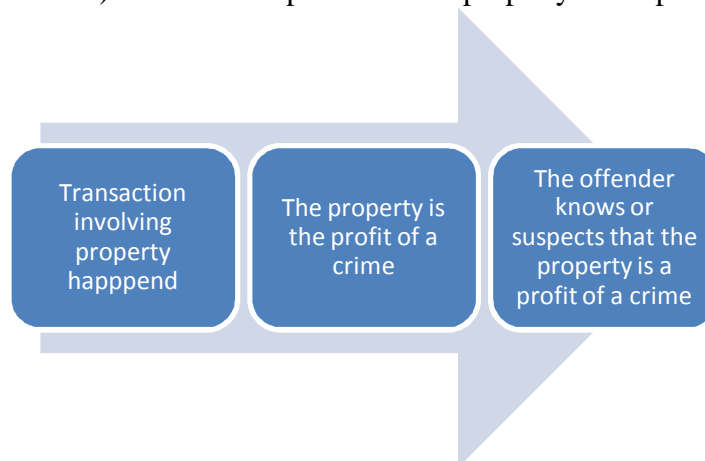


Figure 4 the Prosecution Process

Money laundering proceeds is run through the financial system to disguise its illegal origins and make it look like to be legitimate funds. Most often associated with organized crime, it can be linked to any crime that is most often significant proceeds, like extortion, drug trafficking, arms smuggling, and white collar crime. (World Bank, 1995.)

The bank secrecy and other that kind of secrecies impedes investigations. Such legislation is needed which would allow access to investigate bank accounts and financial documents. (Asset recovery , 2012.)

The Third Anti-Money Laundering Directive by EU in 2005 gave also a wider definition of money laundering. Although initially limited to drugs

offences, there has been a trend in recent years towards a much wider definition of money laundering based on a broader range of predicate offences. A wider range of predicate offences facilitates the reporting of suspicious transactions and international cooperation in this area. Therefore the definition of serious crime should be brought into line with the definition of serious crime in Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (Eur-lex europa.eu, 2005.)

3.3 The beneficial owner and corporate vehicles

Prime Minister David Cameron said in April 2013, "A lack of knowledge about who ultimately control, own and profit from companies leads to aggressive tax avoidance, tax evasion and money laundering, undermining tax bases and fuelling corruption across the world. Therefore, the G8 and EU must work together to ensure full transparency in beneficial ownership." (Global Witness, 2013.)

The term "beneficial ownership" is mentioned in the guidelines for banks and other institution in order to understand who the real owner of the funds is. What, who or which control over such funds or entitlement to those funds. The true control of entitlement can be behind the signature authority or legal title. That means that the person whose name is on an account opened with a bank is not necessarily the person who ultimately controls the funds or who is ultimately entitled to such funds. In Anti-money laundering cases it is necessary to determine what the source of funds is. When talking about beneficial owner there are different categories to deal with. They are a natural persons, legal entities, trusts and unincorporated associations. (wolfsberg, 2013.)

European Union's directive 2005/60/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL was conducted to prevent that financial system is not used for money laundering or terrorist financing.

The Directive talks about identification of the customer within the financial system. To verification of the customer and any beneficial owner, to identify who or what they are. There is a need for precise definition of "beneficial owner" and the verification of their identity. (Eur-lex europa.eu, 2005.)

When talking about the beneficial owner, the problem lies in the lack of regulations and laws in some countries. They allow the secrecy which covers company and bank account owners. Beneficial ownership is relatively simple and straightforward concept in theory but difficult to do in practice. (van der Does de Willebois, Halter, Harrison, Park & Sharman 2011.)

The case Enron during the 2008 financial crises and the reports of corporate profits being shifted demonstrated that multinational corporations can have hundreds or thousands of subsidiaries hidden throughout the world. This way corporate entities can transfer profits abroad and reduce their tax liabilities or to avoid local regulations in developing countries. These cases are hard to detect. (Financial Transparency Coalition, 2011.)

Financial institutions, including banks, are required to identify their customers while they open an account as a part of **due diligence**, the true customer is often hidden behind layers of companies and trusts. These structures cover the true nature of transactions and tracing beneficial ownership and the origin of funds. (Financial Transparency Coalition, 2011.)

A report by World Bank studied many corruption cases. The study also showed how different institutions and countries understood the meaning of the beneficial owner. Based on that study they ended up with recommendations for the definition of the beneficial owner.

1. Countries should ensure that, whatever definition of beneficial ownership they employ, the beneficial owner is always a natural person. Without this principle, the concept of beneficial ownership is **useless**.
2. Countries should consider introducing an alternative term for those persons currently described under formal approaches as beneficial owner.
3. Countries should develop a clear formal standard for identifying standard parties likely to be the beneficial owner but should require **deeper inquiry** in high-risk scenarios.
4. Ongoing due diligence should be used to bridge the gap between the formal and substantive approaches toward collecting beneficial ownership information. Server providers should be aware of the dangers of relying on evadable standards, confirmed only by client-provided information and public records. In suspicious cases they should dig deeper to find out whether other natural persons really are in control.

(van der Does de Willebois, Halter, Harrison, Park & Sharman 2011, 30.)

The true beneficial owner hides behind various types of corporate vehicles. They are companies, trusts, foundations, fictitious entities and unincorporated economic organizations.

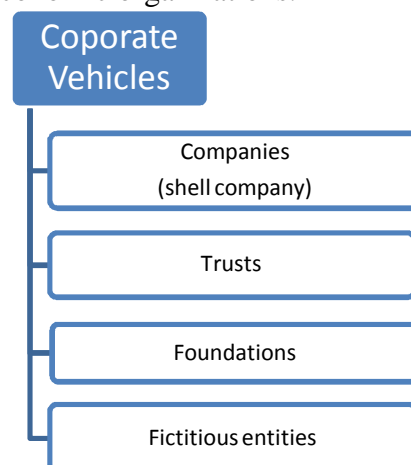


Figure 5 the types of corporate vehicles used in grand corruption schemes

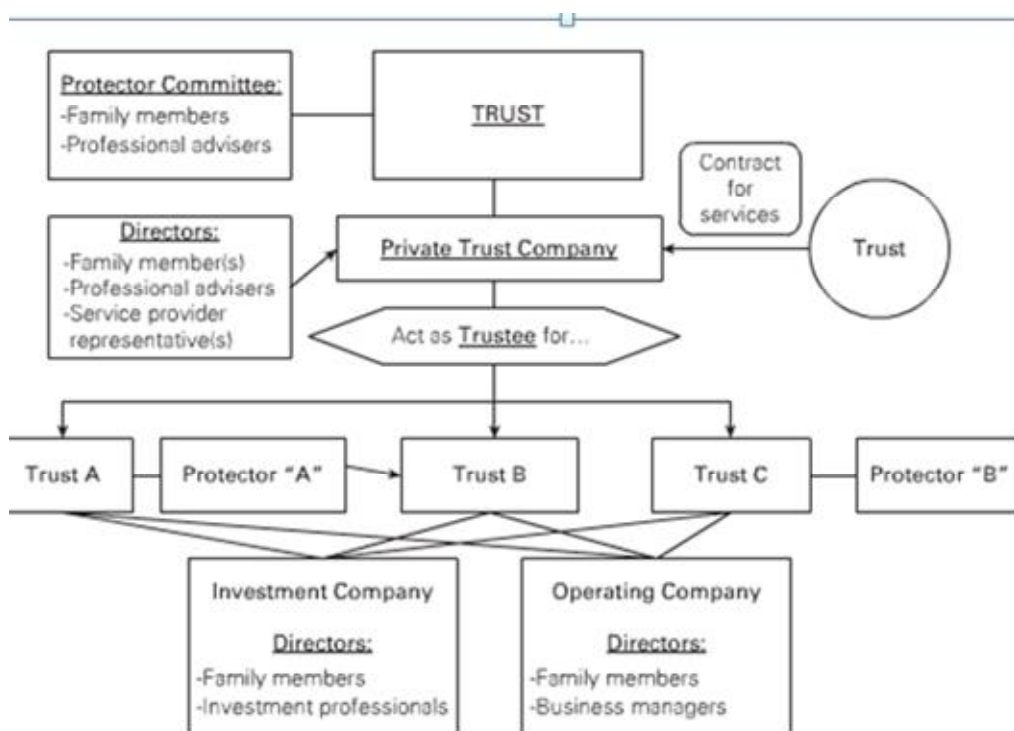


Figure 6 Example of a Complex Legitimate Corporate Vehicle Structure (van der Does de Willebois;Halter;Harrison;Park;& Sharman, 2011,56).

3.4 A shell company and due diligence requirements

A shell company is a non-operational company a legal entity that has no independent operations, nor hardly any assets, ongoing business activities, or employees. In money laundering case over Riggs Bank the U.S Senate stated in their report that "In many instances, a private banker will set up shell corporation for a client and open accounts in the name of that shell corporation, in order to disguise the client's ownership of the account or certain assets". (van der Does de Willebois,Halter,Harrison,Park& Sharman 2011, 34.)

In the World Bank's study about "How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About it", 40 jurisdictions were reviewed. From the 40 jurisdictions 325 different forms of legal entities were aggregated for analysis to determine the information that was required upon registration and that afterwards would be available to banks and authorities. (van der Does de Willebois,Halter,Harrison,Park& Sharman 2011,71-72 .) The result can be seen in the figure made of the study.

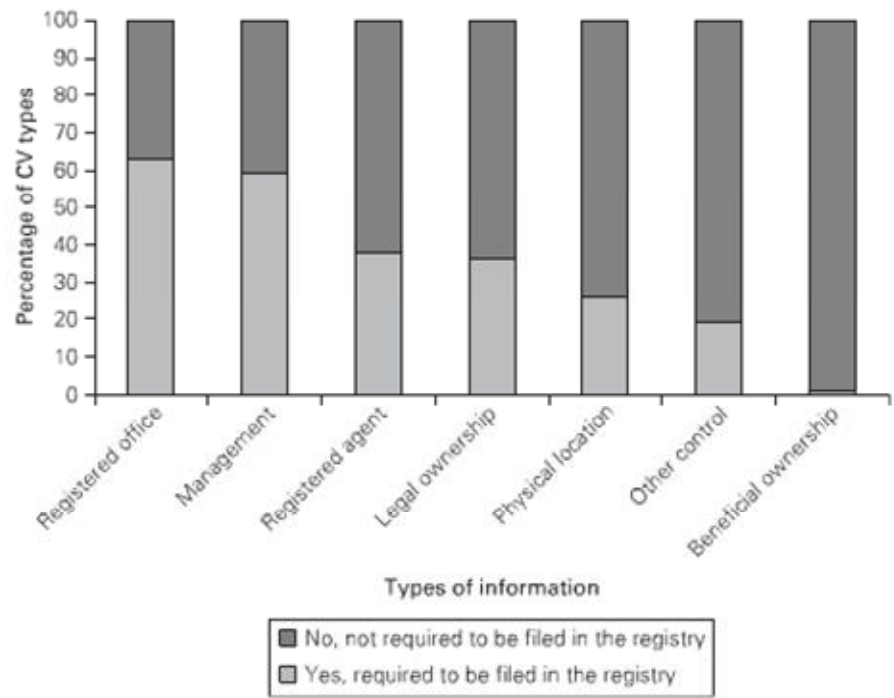


Figure 7 Types of Information on Corporate Vehicles Collected by Registries. (van der Does de Willebois;Halter;Harrison;Park;& Sharman, 2011, 72).

The next figure is from the same report. It shows that 35countries over 47 OECD countries require an ID for due diligences while forming a company. The 12 OECD countries do not require a personø ID for company forming. This means, that the person given in the forming blanket can be anyone or no one.

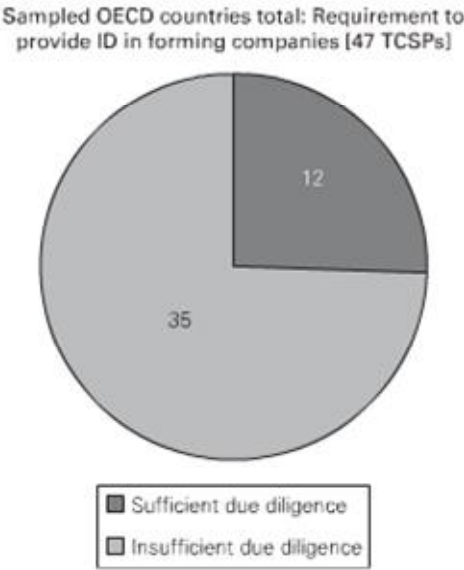


Figure 8 Requirement to Provide ID Forming Companies (Sampled OECD Countries (van der Does de Willebois;Halter;Harrison;Park;& Sharman, 2011, 84).

4 THE LAUNDERERS AND ORGANIZED CRIME

Organized crime operates among other businesses, entrepreneurs and corporations. It is actively attacking "normal" business and business across the world.

It's not just the Mafia. Today, organized crime comes at us from every corner of the globe. For example FBI work to cripple these national and transnational syndicates the best they can. Using all the tools they have got: undercover operations; confidential sources; surveillance; intelligence analysis and sharing; forensic accounting; multi-agency investigations; and the power of racketeering statutes that help them take down entire enterprises. They cooperate closely with international partners in some cases, swapping personnel to build cases and disrupt groups with global ties. (Federal Bureau of Investigation, FBI.)

FBI defines organized crime as any group having some manner of a formalized structure and whose primary objective is to obtain money through illegal activities. Such groups maintain their position through the use of actual or threatened violence, corrupt public officials, graft, or extortion, and generally have a significant impact on the people in their locales, region, or the country as a whole. (Federal Bureau of Investigation, FBI.)

In 2010 a former head of the UN Office on Drugs and Crime (abbreviation UNCOD), Antonio Maria Costa, told that criminals are getting profits in the tens of billions of dollars. He claims that countries are not cooperating enough with each other and with the U.N. He calls the criminal businesses "superpowers". They are well armed business organizations. (Reuters, 2010.)

According to UNCOD's report in 2010; Europe's heroin market accounts for \$ 20 billion, counterfeit goods detected on Europe's borders have a value over \$ 10 billion per year. Human trafficking for sexual exploitation in Europe gives \$ 3 billion and smuggling of migrant workers to the USA and Europe brings \$ 7 billion per year. (Reuters 2010.)

Costa also expresses his concern that not only the economic is in danger, but since the criminals today can influence elections, politicians and military, they can gain power. It is not only a problem of developing nations. The illicit flows head north. The world's biggest economies like G8 and the BRIC countries are the biggest markets for illicit trade. (Reuters 2010.)

This chapter is mainly about organized crime groups. There are others that also are, by the definition, doing crimes like tax evasion, but not considered as organized crime groups. They are more or less normal businesses. These kinds of cases are covered here later in other chapters. Drug business also seems to be an interest by others than organized crime.

4.1 Global organizations

As mentioned in the chapter one, the criminal organizations origin from different parts of the world and they have a long history.

The Chinese Triads has about 100,000 members (Lilley, 2006). Japanese Yakuza organization is estimated to have also around 100,000 members and a turnover around \$ 90 billion per year. This means that they are Japan's biggest individual business. They have big businesses in Japan for property and loan fraud with prostitution, debt collection and extortion rackets. (Lilley, 2006.)

Mexico has its Los Zetas which is a half military based group. There was in 2008 6 290 murders and 70-90 daily kidnappings in Mexico. The organization give work for 150 000 persons. About 300 000 persons make their living by producing marihuana. That puts Mexico the runner up after Afghanistan. The system is like an army. They work as soldiers, hit men, drug dealers and other members. The phenomenon has taken its place in the Mexican economy and it seems to be there for good. The corruption and poor politics causes an overall degradation. During the last years about 60 000 arrests have been performed. The phenomenon is still going strong. It has achieved such a huge social and economical meaning, that it hardly can be wiped away just like that. The common moral degradation and the corruption of the political and public sector of the whole Mexican governmental area, make the phenomenon strong there. Both the governing and opposition parties have got tangled in illegal acts. Many parties openly support and plead the drug dealers' cases as well as the police forces and the judicial system. (Forgione 2009, 195-197.)

The Mexican organized crime group Golfo reminds the Italian groups' early stage. The organizations are complicated networks, mafia wars and varying alliances in order to gain power and control. Relations with the economy and business elite is similar with the Italian mafia groups. The Mexican organized crime groups arrange their own representatives into mayors and conveners in the same way as was done in Italy by Mafia. In Mexico they started by smuggling alcohol to U.S during the prohibition in the 1930s. In the 1970s they switched over to drugs like the Cosa Nostra did in U.S. (Forgione 2009, 197-198.)

Los Zetas is directed by Heriberto Lazcano and Ezequiel Cardenas, who is the brother of a famous Golfo group's leader Osiel Cardenas's brother (Forgione 2009, 198).



Figure 9 Photo of credit (Tilford, 2012).

The Sinaloa Cartel (includes Pacific Cartel, Guzmán-Loera Cartel) is according to the United States Intelligence Community Mexico's most powerful organized crime group and "the most powerful drug trafficking organization in the world". According to the U.S Attorney General, the Sinaloa Cartel is responsible for importing into the United States and there distributing 200 tons of cocaine and large amounts of heroin during 1990 and 2008. One of the group's bosses stated in Chicago trial that the U.S agencies made an agreement that the American authorities would close an eye on the cartel's trafficking in exchange for information on the operations of enemy cartels. Los Angeles Times wrote that weapons were purchased on behalf of the powerful cartel by undercover informants working for the FBI and the DEA (abbreviation of U.S Drug Federal agency). Washington Times tells that the CIA is involved with the Sinaloa Cartel. (Tilford, 2012.)

There is blood flowing in Mexico. The drug wars are most violent and photos taken are unpleasant to look at. The transnational drug trade is worth up to \$400 billion a year and accounts for about 8 % of all international trade. The American government is not willing to prosecute the largest banks in the world for transferring and washing billions of dollars of this blood stained money. There will be more about this in chapter 9.5 about the HSBC bank.

The Colombian cartels are highly organized, well equipped and financed. The US Government has reported that these international drug organizations have built powerful financial, transportation, intelligence and communications empires that challenge many small governments. The Cali cartel is said to be worth \$ 206 billion. Brothers Gilberto and Miguel Rodríguez are the leaders of it and were sentenced to 10 years imprisonment in 1997. They still run their operations; even during they were in prison. (Lilley, 2006.)

Salvatore Mancuso leads the Autodefensas Unidas de Colombia (AUC) half military group. Mancuso roots from Italy Salerno Sapri. AUC fights against the leftist guerilla movement FARC and at the same time organizes cocaine transfer network. Mancuso was handed over to US in 2008. In the jungles in Columbia they have many airfields, which are not inspected. Mancuso has many Ndrangetan associates. One of them is a business man from Rome Giorgio Sale, whose responsibilities were to buy and sell cocaine and launder millions of dollars. Mancuso's revenue is billions. With that money he can finance an 11.000 soldier's army, which is very cruel towards farm laborers, civilian population as well as commissioners, judges and others who challenge their mission. (Forgione 2009, 198-201.)

Nigerian groups are famous globally for their financial frauds, which have cost for example the U.S. alone an estimated \$1 billion to \$2 billion each year. Schemes are various they target individuals, businesses, and government offices. Nigerian groups operate in more than 80 countries. (Federal Bureau of Investigation, FBI.)

4.2 Mafia

Italian criminal societies are known as the Mafia. Costa Nostra group comes from Sicily. They specialize in heroin trafficking, political corruption, military arms trafficking. Ndrangetans come from Calabria Italy. They specialize in kidnapping and political corruption, drug trafficking, murder, bombings, counterfeiting, gambling, frauds, thefts, labor racketeering, loan sharking, and alien smuggling. Camorra group comes from Napoli area. It is specialized in cigarette smuggling and collects payoffs from other criminal groups for any cigarette traffic through Italy. The Camorra is also involved in money laundering, extortion, alien smuggling, robbery, blackmail, kidnapping, political corruption, and counterfeiting. (Federal Bureau of Investigation, FBI.)

In 2008 the chief general manager of the bank of Spain remarks that there are far more 500 euro notes than in any other European country. He states that only in the Iberian Peninsula there is 110 million 500 euro notes where as the whole Europe has 464 million notes. (Forgione 2009, 111-112.) Spain is ideal place for mafia people, because in Spain there is no special regime for mafia prisoners like Italy's Article 41bis (also known as hard prison regime; to protect that the prison cannot give instructions to its mafia members). The Spanish climate is similar to Italy's. The laws there are ideal for a person who has escaped from Italy. It is easy to start a fraud company and launder money. The estate business bloomed in Costa del Sol many years. (Forgione 2009, 93-94.) According to Italian and Spanish investigators of police forces 50 kilometers Costa del Sol's coastline is covered with betony which is paid with laundering money from Italy. The construction businesses, restaurants, nightclubs, discos and bars are controlled by the "Napoli men". (Forgione 2009, 123.)

The Camorra clans started compete with the famous German Bosch brand. They falsified Bosch's products and sold them in Germany, East-Europe. The Napoli Bosch is a multinational company. They manufacture them in the low cost countries. The Napoli Bosch products are sold in street sales and clothing stores. Also they sell Foletto vacuum cleaners, which look like the original Folletto vacuum cleaners. Cannon Matic cameras had one n-letter more than in Canon products. The profit in the street sales was transferred with money order to Italy. Law registers all big money orders across borders, that way they spilted them into small sums. Small sums don't cut a dash. (Forgione 2009, 151-157.)

After the Yugoslavian war 1991-1995, the humanitarian help by UN and European Union to Bosnia was exploited by one of the mafia families.

"A local lady interpreted us. She proposed me (meaning Campanella) all kinds of investments." This meant that the Villbate family arrived to Bosnia. Villbate family is very strong. They originate from the area between Sicily and Palermo. In Bosnia everyone could be bribed. The Villbate families delegate in Bosnia was Francesco Campanella. In Sarajevo he takes care to be active in getting a part of the humanitarian help by UN and EU. Unfortunately the Bosnian bank account is on a ladies name. There is some 40 000 DEM profits saved there. The local lady Mrs. Dada the interpreter, took the money from the bank account and left. Although the Villbate family had bad luck in Bosnia, they did not forget the route to Balkan. (Forgione 2009, 169-174.)

A police report in Germany evidences that in 2009 the Italian mafia clan from San Luca owned a huge amount of pizzerias in Germany. Germany understood the possible future development and laid down a new law. It allows confiscating a mafia person's property. In Germany as in many other European countries the law development was not very fast and allowed the mafia families to locate themselves firmly in local business environments. (Forgione 2009, 149-150.)

Forgione says in an interview to Taloussanomat, that Mafia can be violent in Italy, but elsewhere mafia lives within the normal economy and business, where it cannot be recognized as criminal. The Schengen Agreement has helped the criminal organizations by its borderlessness. (Sokola, 2011.)

4.3 Narcotics Kingpin Organizations list

For many years U.S government has compiled (Foreign Narcotics Kingpin Designation Act) a list of all the international organizations that operate with drugs. The list is called Narcotic Kingpin Organizations list. It is a huge list with hundreds of pages and with thousands of names of organizations, banks, and companies. After the 11.9.1999 U.S government made a new law Patriot Act. The Mexican organizations, as well as the Mafia organization Ndragheta with many other organizations are in the list. The government can confiscate the members' assets and close their bank accounts. Ndragheta being in the list was supported by the fact that they help the Columbians get richer and stronger all the time. (Forgione, 2009, 201-202.)

4.4 Other organizations

Even though this chapter is about organized crime, there are cooperators, who are big players in the drug business. A report "Afghanistan Opium Survey 2013 Summary findings" by United Nations Office of Drugs and Crime stated that opium production is at an all-time high. It has risen since U.S occupation in Afghanistan started in 2001. Afghanistan has been under the military control of US and NATO forces for more than twelve years.



Figure 10 An American soldier protecting the opium field in Afghanistan (GlobalResearch, 2013).

U.S Marine Corps Sgt. Noel Rodriguez, a team leader with Alpha Company, 1st Battalion, 7th Marine Regiment, Regimental Combat Team 6, communicates with an adjacent squad while on patrol in Sangin, Helmand province, Afghanistan, May 1, 2012. Marines patrolled to provide security in the area and interact with the local populace. (GlobalResearch, 2013.)

According to the UNODC report, cultivation of poppy across the war-torn nation rose 36 per cent in 2013 and total opium production amounted to 5,500 tons, up by almost a half since 2012 (UNODC, 2013).

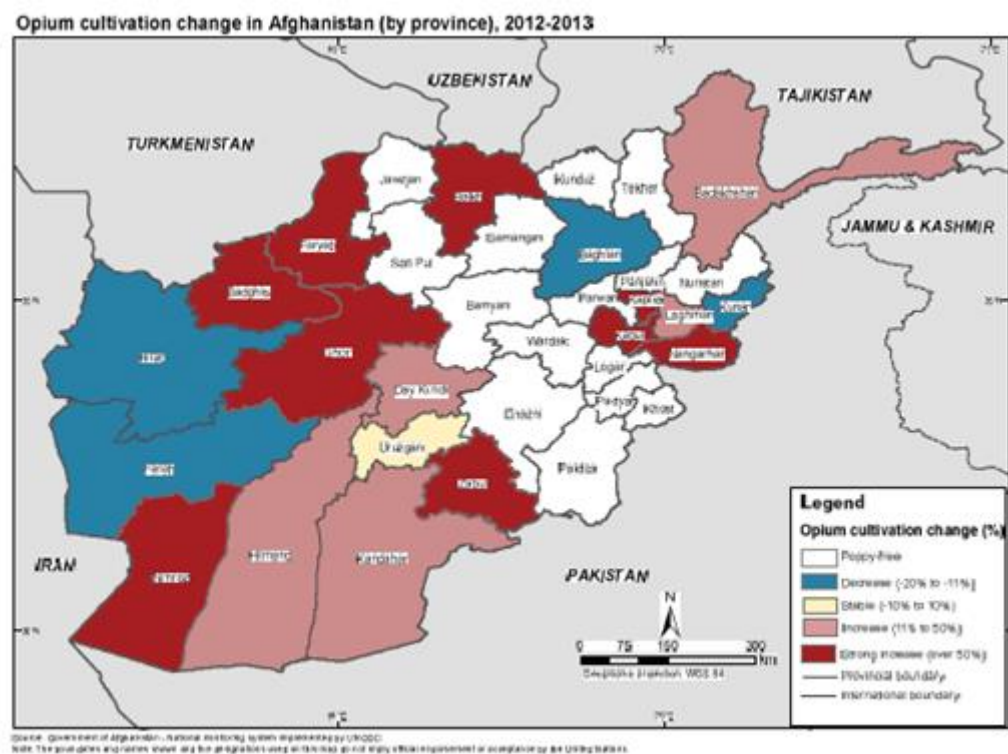


Figure 11 Opium cultivation change in Afghanistan (UNODC, 2013)

4.5 FED

The documentary book called *Infiltrator* written by an American agent Robert Mazur. Mazur was mostly in South America for some years in order to disclose the drug organizations. Robert Mazur mentions FED in his book. Mazur's investigations with the drug organizations led to BCCI, Bank of Credit and Commerce International. After all it was an important player for every drug business and other influential parties. At the end of the book Mazur sits with Akbar Bilgrami BCCI's Miami officer assigned to the bank's Latin American division. The conversation happened in September the 3rd in 1988. Bigrami says to Mazur; "Do you know who the biggest money launderer is in the U.S.?" "Who?"; says Mazur as an infiltrator called Bob. "The Federal Reserve Bank. They are such hypocrites! They know that the Bank of the Republic in Bogota has a teller window known as 'the sinister window'. Under Colombian rule any citizen who has huge piles of cash can come to that window and anonymously exchange their U.S. dollars for Colombian pesos. No questions asked. This causes the central bank to accumulate pallet loads of U.S. dollars that are shipped to the Federal Reserve and credited to the account of the Bank of the Republic. Again no questions asked. The people at the Federal Reserve aren't idiots. They see this river of hundreds of millions in U.S. dollars being shipped to them from Colombia. They know what generates that cash. That's drug money that has been smuggled from the U.S. and Europe to Colombia. The Federal Reserve takes that because it's good economics for this country's banking system. The Americans' so-called War on Drugs is a sham." Later research confirmed Bilgrami's statement. (Mazur 2009, 339.)

5 THE PREVENTION OF MONEY LAUNDERING

There are many kinds of laws and regulations which aim to stop money laundering. There are several organizations which try to prevent money laundering from happening. Large amount of states are committed and work in the organizations and they take part in actions of all kinds in order to stop the laundering of criminal earnings. Cases like the Bank of Credit and Commerce, shortened BCCI, Enron, Parmalat and many others have produced various anti-money laundering directives for international banks (Brittain-Catlin 2005, 177.)

The European Commission's Directorate-General Home Affairs states in their website "Although it is not possible to measure money laundering in the same way as legitimate economic activity, the scale of the problem is considered to be enormous" (European Commission Home Affairs, 2013).

5.1 United Nations Office on Drugs and Crime

United Nations Office on Drugs and Crime, shortened UNODC, is a global leader in the fight against illicit drugs and international crime. It was established in 1997 through a fusion between the United Nations Drug Control Programme and the Centre for International Crime Prevention. It operates all over the world through its field offices. It is financed by Governments (UNODC, Objectives, 2012). The objectives of the Global Programmers are to strengthen the ability of Member States to implement measures against money-laundering and the financing of terrorism. UNODC assists the Member States in detecting, seizing and confiscating the illicit proceeds. It provides relevant and appropriate technical assistance if needed. (UNODC, Objectives, 2012.) There are 193 Member States in United Nations (United Nations, 2012).

The organization assists the States to adopt legislation that gives effects to the universal legal instruments against money-laundering. UNODC encourages states to develop policies to be against money-laundering. UNODC monitors and analyzes related problems and raises public awareness about money-laundering and financing of terrorism. It is a coordinator of initiatives carried out together with United Nations and other international organizations. (UNODC, Objectives, 2012.)

UNODC's program The Global Programme against Money-Laundering, Proceeds of Crime and the Financing of Terrorism, GPML, works with the Anti-money-laundering/countering the financing of terrorism, AML/CFT, activities, World Bank, International Monetary Fund, IMF, Commonwealth Secretariat, Organization for Security and Co-Operation in Europe, OSCE, Asian Development Bank, ADB, Egmont Group of Financial Intelligence Units, UN Counter-Terrorism Executive Directorate, CTED, UN Counter-Terrorism Implementation Task Force, CTITF, INTERPOL, regional development banks, European Union, United Nations Commission of International Trade Law, UNCITRAL, US Department of Justice, OPDAT, US Department of Treasury and Office of Technical Assistance,

OTA, Inter-American Drug Abuse Control Commission of the Organisation of American States, OAS/CICAD, FATF-Style Regional Bodies, FSRBs and number of individual country technical assistance is provided to it. To continue the partners needs to be mentioned also Asia/Pacific Group on Money-Laundering, APG, Caribbean Financial Action Task Force, CFATF, Council of Europe ó MONEYVAL, Eastern and Southern Africa Anti-Money-Laundering Group, ESAAMLG, Eurasian Group, EAG, Middle East and North Africa Financial Action Task Force MENAFATF, Inter-Governmental Action Group Against Money-Laundering & Terrorist Financing in West Africa, GIABA and the Financial Action Task Force of South America, GAFISUD. GPML's internal partners in UNODC are the Treaty and Legal Assistance Branch, Terrorism Prevention Branch, Law Enforcement, Organized Crime and Anti-Money Laundering Unit, Justice and Integrity Unit, Anti-Human Trafficking and Migrant Smuggling Unit. (UNODC, Objectives, 2012.)

5.2 The Financial Action Task Force

The Financial Action Task Force, FATF, is an inter-governmental body. It was established in 1989 by the Ministers of its Member jurisdictions. There are 34 member jurisdictions. They are: Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Denmark, European Commission, Finland, France, Germany, Greece, Gulf Co-operation Council, Hong Kong/China, Iceland, India, Ireland, Italy, Japan, Republic of Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Portugal, Russian Federation, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States. (Financial Action Task Force, FATF, 2012.)

The objectives of FATF are to implement standards and effective legal regulations for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. It gives guidance and recommendations. Also it gives follow-up reports like how effectively the recommendations have been implemented. The FATF works closely with other organizations which work on the combating against corruption. (Financial Action Task Force, FATF, 2012.)

Anti-money laundering, AML, is a term mainly used in the financial and legal industries to describe the legal controls that require financial institutions and other regulated entities to prevent detect and report money laundering activities. Anti-money laundering guidelines came into distinction globally as a result of FATF activities. AML is an international framework of anti-money laundering standards. These standards began to have more relevance in 2000 and 2001 after FATF began publish a list of countries that did not have much interest to lay down anti-money laundering laws and do international cooperation, a process known as "name and shame". In the report 2010 about money laundering FATF make comments about the situation. "The presence of bank secrecy laws, poor bank regulation and other areas of deficiency in certain jurisdictions facilitate money laundering schemes created by or participated in by TCSPs; and can prevent or prolong detection by or cooperation with the home State of the money launderer" (Financial Action Task Force, Caribbean Financial Task Force, Groupe D'Action Financiere, 2010.). A Trust or Company Service

Provider (TCSP) is any firm or sole practitioner whose business is to: 1. Form companies or other legal persons. 2. Act or arrange for another person to act as a director or secretary of a company. 3. Act or arrange for another person to act as a partner for other legal persons. 4. Provide a registered office, business address, correspondence address or administrative address for a company, partnership or other legal person or arrangement. 5. Act or arrange for another person to act, as a trustee of an express trust or similar legal arrangement. (GOV.UK HM Revenue & Customs, 2012.)

5.3 Home affairs DG

The Directorate-General of the European Commission is in charge of the policy area known as "Home Affairs". They assist EU States in fighting organized crime more effectively. The EU's action extends from crime prevention to law enforcement and is based on various tools. They gather reliable crime statistics and fund European projects and specialist. (European Commission Home Affairs, 2012.)

5.4 Other remarks

England has never been a keen fighter against mafia. For example the agreement with Italy does not contain the law section 416 b, which means that an arrested person can be handed over to another state. There are plenty of examples of criminals who have a conviction in Italy, but live peacefully in UK. The Italian police have asked for handing over the criminals, but UK has not been willing to do that. After 2004 things have changed. The European warrant of arrest, forces the UK to hand over the criminals. (Forgione 2009,159-163.)

6 SHORT REVIEW OVER LEGISLATION

6.1 European Union (EU) and domestic legislation

The Third Anti-Money Laundering Directive by EU was adopted in 2005. The Directive requires financial operators and some non-financial operators to report any suspicious or unusual transactions or activities. The Directive incorporates into EU law the revised Forty Recommendations of the Financial Action Task Force (FATF), which is the international standard setter in the fight against money laundering and terrorist financing. In February 2012 FATF agreed again upon 40 new recommendations of money laundering and antiterrorism. The recommendations define what the level of domestic legislation for terrorism and money laundering must be as minimum. There for the European Commission has given an suggestion for the forth money laundering directive. (Investigation National Bureau of Finland, Keskusrikospoliisi, 2014.)

The criminalization of money laundering has been focused more during the past years. The Finnish legislation was modified in 2011. It was necessary to specify the original crime maker to also the criminal for laundering money. (Investigation National Bureau of Finland, Keskusrikospoliisi, 2014.) As there is always the predicate offense which leads to the money laundering crime. Trying to hide the origins of the money is a crime as itself. There for it is necessary to be able to charge with on offence possibly over both crimes.

7 THE LAUNDERING MECHANISMS

Money laundering mechanism is illustrated here as it is investigated by many authorities. Later in the chapter 8 Arbitrage, there is more information about offshoring and beneficial legislation, which are important parts in the laundering process.

7.1 The methods to launder criminal money

Money laundering process consists of several independent functions or combinations of several functions. The process of money laundering can be implemented in various ways. Money laundering processes are divided into three phases. They are placement, diversion and restoration phase. (Sahavirta, 2008, 24-25.)

The initial placement, the launderer brings in his illegal profits into the financial system. One way is to break up large amounts of cash into less conspicuous smaller sums. The sums are then deposited into a bank account or by purchasing a series of monetary instruments such as cheques, money orders etc. These monetary instruments are then collected and deposited into accounts at another location. (Financial Action Task Force, FATF, 2012.)

After the process of depositing the funds into a financial system, the launderer needs to make a series of conversions or movements of the funds. This helps to make the source more difficult to find (the diversion phase). The funds might be going through a purchasing and selling an investment instrument or to chain the funds through a series of accounts at different banks in different international locations. This kind of recycling is more beneficial on those kinds of jurisdictions that do not co-operate in anti-money laundering investigations (offshores and countries). Also the fund transfer is disguised as payments for goods or services in order to get a legitimate appearance. (Financial Action Task Force, FATF, 2012.)

The third stage in the process to launder the criminal profits is when the funds re-enters the legitimate economy. This is the case where the launder money meets also ordinary businesses among the very characteristic branches like real estate, luxury assets or business ventures. The investment range has widened and there is even harder to recognize. (Financial Action Task Force, FATF, 2012.)

The money laundering itself can happen all over the world, despite where the crime was generated. The launderers seek out countries or sectors with low risk of possible detection. These areas have weak or ineffective anti-money laundering programs. The funds must still be moved through a stable financial system. The launderer will get the illegal funds back. (Financial Action Task Force, FATF, 2012.)

The circulation process can also take place quite close to the underlying activity, in the country where the funds originate. The strategy whether to launder close or far, depends on the funds stage the funds have reached. The launderer might choose an offshore financial centre, a large regional business centre, or a world banking centre. The location must provide a

sufficient financial or business infrastructure. It is important that the transaction cannot be traced and therefore sent from various locations to various locations and places with high bank secrecy. (Financial Action Task Force, FATF, 2012.)

Francesco Forgione is mentioned many times in this master's work. He has many years of experience of investigating the Italian mafia groups. While serving the Italian anti-mafia commission as a head of it, he can name exactly the names, the amounts, the places, the phone calls etc. In his book *Mafia expert* he has gathered a huge amount of statements, recorded tapes, interrogation material, minutes of the rights etc. He tells in his book that the material is big and correct. The commission really knows who, when and what. (Forgione, 2009.)

Mafia has many businesses internationally. Behind the normal business they run criminal acts and launder money. Money transactions are split into small amounts and transferred into bank accounts all over the world. The small sums don't pay anybody's attention. Like mafia the modern organized crime operates globally. They have international branches in order to gain more profits by being a part of the global illegal business and also to look like a normal international business. They have businesses to hide behind and do their criminal actions. They bribe politicians and officers in order to do what they need. The money is laundered through the financial system and casinos or construction businesses etc. Their tendencies are the same trends as business as usual, go global, and find new ways and products. (Forgione, 2009.)

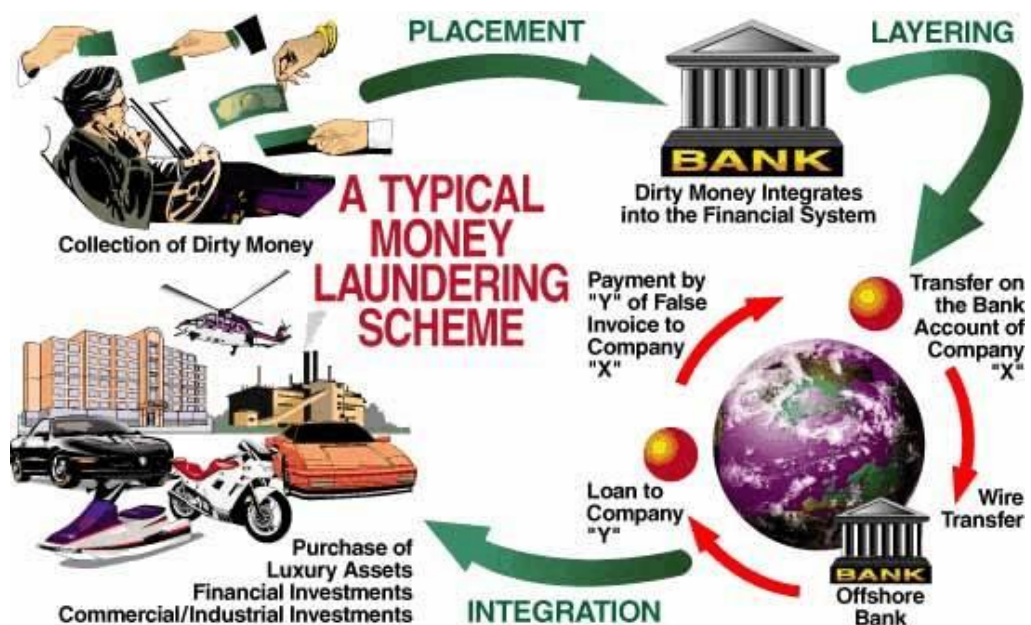


Figure 12 The Money Laundering Cycle (UNODC, Money-Laundering Cycle)

7.2 The investments

The final transaction the investment might happen in another location where the profit was generated. The original location might be too unstable economy or locations offer limited investment opportunities (Financial Action Task Force, FATF, 2012).

If we consider the Finnish economy, could that be a stable and would it offer enough investment opportunities? For example what body in Finland investigates the venture capital origins? These venture capital companies in Finland can be found in their association's website (Finnish Venture Capital Association, 2012). The idea there is that the company receives money from unknown investors. The company takes care of investing their money in the best possible way the investors wish. There is a list of investors in FVCA's website. All the investors are companies. These companies have locations all over the world. An example is 3i Nordic Plc. It has locations in Baltic states, Eastern Europe, EU, Finland, Nordic region, Other, Russia and USA (Finnish Venture Capital Association, 2012). The thing is where does the money come from for all these venture capital companies? There are many fairly unknown companies with pictures of members of young men in the company management or members. Yet they tell in their websites that 'they invest from Fund Three with 45 M€ in fresh capital. A typical investment is 0,75-1M€'. This source is not available, as the matter is only a description of a profile of a venture company. It necessarily does not use money laundering capital.

7.3 Sports and the study about football

When talking about how much there is dirty money in sports, there is one sector which has been investigated by the Financial Action Task Force. FATF emphasizes in the report, that **the analyses can be applied to many other sport sectors**. FATF as an independent inter-governmental body develops and promotes policies to protect the global financial system against money laundering. For those purposes FATF made a study of several cases that illustrate the use of the football sector as a vehicle for laundering criminally earned money. The study was released 2009. Afterwards money laundering through the football sector is discovered to be even deeper and more complex than it was by the time the report was made. The analysis still shows that there is a variety of money flows and financial transactions that increase the risk of money laundering through football. These relate to the ownership of football clubs or players, the transfer market, betting activities, image rights and sponsorship or advertising arrangements. Some cases prove that the football sector is also used as a vehicle for committing various other criminal activities such as trafficking in human beings, corruption, drugs trafficking (doping) and tax offences. (Financial Action Task Force, Groupe d'action financiere, 2009,4.)

The money laundering techniques vary from basic to complex techniques, including the use of cash, cross border transfers, tax havens, front companies, non-financial professionals and PEPs meaning politically exposed person. Many cases showed that there were connections with other well-known money laundering typologies such as trade based money laundering, the use of non-financial professionals and NPOs, which are Nonprofit organizations, for money laundering, and laundering through the security sector, the real estate sector and the gaming sector. (Financial Action Task Force, Groupe d'action financiere, 2009,4.)

The project team was formed of Argentina, Belgium, as project co-leader, Brazil, Ireland, as project co-leader, Italy, The Netherlands, as project co-leader, Norway, Sweden, Switzerland and the United Kingdom. The report was written with the support from the OECD sub-group on tax crimes and money laundering. (Financial Action Task Force, Groupe d'action financiere, 2009,5.)

Methodology for that report was based on four main sources. Extensive literature review, the analysis of the answers to a questionnaire sent to FATF, the results for a typology workshop and subsequent consultation with the football sector. (Financial Action Task Force, Groupe d'action financiere, 2009,6.)

7.3.1 They choose the football as one of the biggest sports

From the time of our ancestry a lot of resources have been devoted to sports. Today the commercialization of sports, the exceptional internationalization of the sports labor market, the sums of money flowing in from broadcasters and sponsors, and massive cross-border investments by sponsors, including the sporting industry itself and also rich private investors, have made the devotion to sports something unique. Some recent estimates in Europe the sporting industry accounts for from 0,5 to 3,7 of overall EU-GDP (Gross Domestic Product). Money has an enormous influx on sports and that also bring negative consequences. The risk of fraud and corruption is high and it is a good way to launder dirty money. (Financial Action Task Force, Groupe d'action financiere, 2009,7.)

According to literature review and the results of the FATF-questionnaire, several sports are identified to be vulnerable to money laundering. Those are football, cricket, rugby, horse racing, motor racing, car racing, ice hockey, basketball and volleyball. In earlier research was pointed out that gambling on horse races gives opportunity to launder money. There is a set up organized system for buy-back of winning tickets from their legitimate holders. Other ways are to repay ounces chips in the form of cheques. Or to change small bills into large ones in order to make the bulk smaller for the cross border transfer. Horse racing also gives an opportunity to launder money through the acquisition of horses and organizing illegal races. (Financial Action Task Force, Groupe d'action financiere, 2009,8.)

NHL has 30 teams in the US and in Canada, nearly 1 million registered players. NHL generates billions of dollars in revenue. The Russian mafia likes hockey both in the area of former Soviet Union and abroad. Other criminals have been involved with the hockey franchises. Internet gambling on hockey connected with match fixing is one way by which criminals launder millions of dollars without any suspicion. It is not always the profits criminals seek in sports, but the social prestige is more important factor. Popular sport can be a way for criminals to become celebrities by associating with famous people and gaining powerful circles within established society. (Financial Action Task Force, Groupe d'action financiere, 2009,8.)

Money laundering through legal and illegal betting, nowadays more and more on the internet, is huge and increasing problem. The European Commission proposes that the existing legislations over gambling will be

more specified which will cover also internet gambling. Today commission controls the gambling in casinos. (Taloussanomat, 2013).

The report was over football, because it is one of the biggest sports in the world. There are 38 million registered players and 5 million referees and officials. It is played all over the world. It has fans and passive spectators at homes worldwide. The FIFA World Cup Final in 2006 attracted just over 1 billion viewers or 15 % of the world population. (Financial Action Task Force, Groupe d'action financiere, 2009,10-11.)

There are no thorough figures of the overall size of the football sector in the world. According to the Deloitte Annual Review of Football Finance the total size of the European football market was estimated at 13.8 billion EUR in 2007. This is as much as 0, 1 percent of the EU GDP. The richest football clubs in the world are the premier League in England, Bundesliga in Germany, la Liga in Spain, Serie A in Italy and Ligue 1 in France. (Financial Action Task Force, Groupe d'action financiere, 2009,10.)

7.3.2 The structure of the football industry

The main four revenue sources of the professional football in Western Europe are match day revenues (gate receipts and all-season tickets), television rights, sponsorship and other commercial revenues. Half of the revenue is spent on salaries and related costs. Salaries and also the net transfer payments. Thinking about the industry called football there are actors like clubs (basic cell of the industry), football players as the assets of the industry, corporate sponsors as investors, media, individual investors called club patrons, local business clubs or talent pools investing in clubs or players, football agents acting in the interest of the player or transfer market, local governments supporting clubs, lender of the resort or stadium complex, tax authorities, real estate proprietors like the owner of stadium and associations or leagues that act as regulators and also as financial operators or clearinghouses for transfer payments. The powerful financial supporters have lots of influence over the club owners, the management and supplying business. If there is fraud, corruption, tax evasion or money laundering it happens within the complex network of relations between these actors. (Financial Action Task Force, Groupe d'action financiere, 2009,13.)

7.3.3 The vulnerabilities of the football sector

Based on the responses to the questionnaires there are many features what make the football sector vulnerable to money laundering.

The market is easy to enter. Football fans are from all areas of society. Meetings between government and corporate officials, and the legitimate and criminal world serves opportunities for conspiracy.

Complicated networks of stakeholders. The growing number of international transfers and huge sums of television and sponsorship money that is spent on sales and purchase of players is a complex and free stage within the stakeholders.

Management lacks professionalism. In the past the leagues have been managed by nonprofessionals, sometimes even volunteers. The development is towards professional management.

Variety of legal structures. Legal structure of clubs varies from private limited companies to foundations. Stadium activities are run by different companies. Players' funds (talent pools) can be separate legal entities. Control and regulations are minimal and there for easily can get hold of.

Huge sums are involved. For instance the transfer market deals with huge sums. Often this money flows move in and out of tax havens or involves many different countries. Also the entry tickets and other revenues in the stadium the clubs still receive in cash.

Irrational character of the sums involved and unpredictability over future results. Sports is considered to a risky investment sector. How can a player be valued reliably and how does it effect on the assets in the balance sheet.

Financial needs of football clubs. Despite of the growth of the industry many of the clubs are financially in trouble. This leads that profit has to be made whatever it takes.

Social vulnerability of some players. Without wise advice players can be exposed to bad business. This can distort the market.

Societal role of football. Dispute what rumors or facts there is about money laundering the illusion of innocence is more powerful.

Non-material rewards. To invest in a football club gives you social status and far away from your criminal status.

(Financial Action Task Force, Groupe d'action financiere, 2009,14-15.)

There were many true cases of money laundering in the FATF's report. There was cases over funding a football club, drug trafficking and investment in a football club, returns from investment, securities based money laundering etc. One is about talent pools.

A club purchases a player for EUR 10 million. The club states officially that the purchase was EUR 5 million, even though the amount of EUR 10 million was provided by the investors. The true EUR 10 million is split so that EUR 5 million is invested in the talent pool and the other EUR 5 million is given to the club off the books, which can be ML- money. The player improves himself and is later sold to another club for EUR 15 million. Everyone in the deal wins. The club has extra EUR 5 million, the investors could launder EUR 5 million and get a return on their investment. The player's agent gains a good commission, after all the player was sold later with a huge profit. (Financial Action Task Force, Groupe d'action financiere, 2009,24.)

Wilson Raj Perumal was sentenced in Lapin District Court (Lapin käräjäoikeus) in 2012 to two years in prison for corruption and match fixing. He was a member of a criminal organization. The corruption money was criminally earned. He was also a witness in the Tampere United Oy's money laundering case. He had a long history in the business and was sent to Hungary after his stay in prison in Finland. There he had a similar case. (Aamulehti, 2013.)

Tampere United was financially in difficulties and received EUR 300.000 from Perumal during 2010-2011 (MTV3, 2011). The managers of Tampere United were convicted over serious money laundering. (Turun Sanomat, 2013). The main owner of the Porin Palloseura FC Popa and the former

manager were also convicted in 2012 over money laundering by taking money from Perumal (YLEuutiset, 2012).

Finnish baseball faced a scandal in 1989 over match fixing. The proceeding lasted until 2001. The case cost the State of Finland a half a million Euros as recoverable attorneys' fees. (pesis, 2001.) The biggest fee went to an attorney called Pekka Lind. He was also a chairman of the Kehittyvien maakuntien Suomi ry and president of Nova Group. Later he had to resign from the Finnish attorneys' association over some misuse of the assets of estates. (Pohjalainen, 2009.)

7.4 Casino

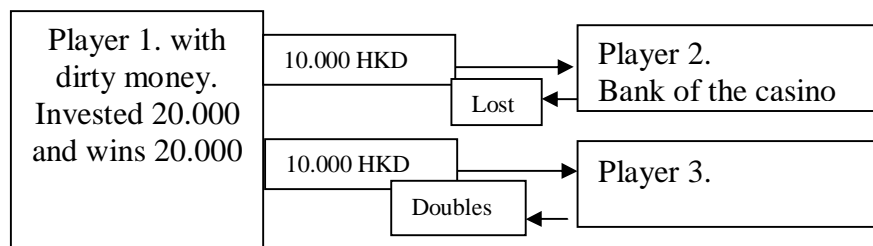


Figure 13 Baccarat-table

The figure illustrates casino game of Baccarat-table in a Casino in Macao. The Player 1 launders money. The Baccarat rules are special. The player lost with his cards to the Bank his investment HKD 10.000, but doubles the other. His investment, HKD 20.000, returns 100 percent. This way the earnings are now from the Casino, which is legal and the 20.000 HKD is laundered. Macao has over 5.000 casino playing tables and half of them are Baccarat tables. The Player 1 continues with the same system and the average lost is 1, 25 percent. That is the laundering cost. Usually it is a group of two or four players. They launder and the casino either knows or not knows what is happening. Baccarat is the most popular money laundering instrument as well as roulette in casino area. In roulette the player sets equal bets to the red and black. The bets return or the possibility to lose 1/37. That is the cost of laundering (2,7 percent). (Kervinen, 2010,36.) The Macao casino's revenue was \$ 45.2 billion in 2013 (Chan, 2014).

The majority of the players come from China. The Chinese money is either corruption money or defrauded public money that the Chinese officials have robbed. There is an anticorruption- research institute in Peking University. Few years ago the institute stated that within one year about 10.000 officials had escaped from China and taken hundred billion dollars worth public money with them. That is 2 percent of their annual budget. (Kervinen, 2010,36.)

Many Chinese businessmen and business leaders have dirty money. There is a strong culture to use cash in businesses in China. The Casino serves also their needs to launder money. (Kervinen, 2010,37.)

The casino companies, their employees and the junket-operators who provide new customers earn a lot of money. The top management is westerners. Macao is a Special Administrative Region of the People's Republic of China. China permitted the American casino companies to operate in Macao 2002. China raises 39 percent casino tax of the casinos' income. The casinos' earnings in Macao are higher than the earnings in Las Vegas. A casino company from Las Vegas earns 70 percent of all the revenue in Macao. (Kervinen, 2010,37.)

The Financial Crimes Enforcement Network (FinCEN) in US prosecuted few years ago the Macao Banco Delta Asia of money laundering. The client was North Koreans. Later the North Koreans Kim Jong il got his 25 million back in Macao by making horse-trading with US. "All Macao banks have North Korean money. The Americans wanted to snap a small bank as a show-off in order not to interfere the money market." says a former bank director Steven X. (Kervinen, 2010, 37.)

7.5 Bank Secrecy

Bank secrecy is helping the criminals to deposit their criminally earned money. In U.S there are special exemptions for foreigners. The foreigners don't have to report their identity when depositing money in the bank in U.S. The legislation and regulation in many tax havens is beneficial and flexible for criminals to transfer money and launder it. Banks are the most important part of money laundering system. Like the Floridian banks, which are specialized to take in Latin American elite's money (Shaxson 2011, 24). The banks co-operate with the tax havens off shore like the islands on the Caribbean. Together they make complicated transactions in order to mislead the real case (Shaxson 2011,24) .

7.6 An idiot's guide to Money Laundering by globalwitness.org

It is very easy to launder money nowadays. You only need to disguise your identity behind a company. Then open a bank account in the company's name.

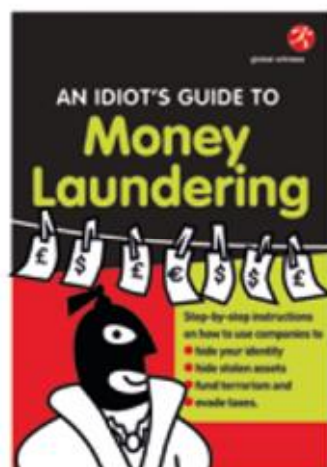


Figure 14 an idiot's money laundering guide, (Global Witness, 2012)

1. Register your company in a place that keeps the names of the people who own it and run it secret. There are various possibilities like Switzerland, British Virgin Islands, but also places like Netherlands or U.S state of Delaware. To make things sure, start many companies with each one owning the previous one and being based in as many different countries as possible.
2. In order to look legal and good have a company in above-board-sounding places. UK has a public shareholder registry, by having your UK Company be owned by another company in a secrecy jurisdiction.
3. Even more safety will give other people to be the owners and directors of your company. You still own and run it, but these nominees are appears to be in charge.
4. Do not open your company yourself. Use instead the national corporate registry. They believe everything you tell them about the owners and directors of your company.
5. Finally open a bank account in the name of your new company and get spending. Bank in places as Latvia and Cyprus ask hardly any questions. Once you got your money into a Latvian bank you can move it anywhere you like within the EU without any checks. It is time to get the mansion, jet or diamonds that you wanted.

By doing the steps guided here, you can hide your identity behind an anonymous company and no-one need know what you are doing with your money. You can earn millions and pay no tax; you can hide your dirty earned money and spend it as it is clean. (globalwitness, 2012.)

It shouldn't be like this. The world's corrupt politicians, mobsters, tax evaders and other criminals shouldn't be able to use companies to hide their identity and move their money around the world.

What's needed is for beneficial ownership information of companies (and the equivalent for trusts and foundations) to be put in the public domain so that it is a matter of public record that owns and controls them. Throughout 2013, Global Witness will be campaigning for strong laws to make this a reality in the U.S., UK and EU.

(Global Witness, 2012.)

7.7 A company in Cyprus

A journalist in Helsingin Sanomat wrote an article about tax havens. In the article he contacted Mr. Hoffman by email. Hoffman works in a British company which helps to establish a company and open bank accounts in tax havens. Mr. Hoffman suggested that in order to avoid taxpaying he could help him by establishing a company in some tax haven. For a Finnish customer he recommended Cyprus because it is an EU member, has low tax rates, regulations are low and secrecy high. It takes only two days and the costs are 2.000 €. With an extra 395-690 Euros one could get the possibility that there is not any possibility to find who the real owner is. (Hänninen, 2013.)

8 THE ARBITRAGE

In order to avoid paying taxes, there are some *ölegalö* ways of doing it. There are regulations and agreements which make it possible to avoid paying high taxes or paying taxes at all. According to definition given in the paragraph three, there are cases where tax evasion occurs, but it is not committed as a crime. The money is earned legitimately and placed into bank account in another country. If the account holder fails to declare this income on a tax return in the country in which it was earned, the funds become laundering funds and the bank might not know anything about it (Hopton 2009, 6).

Another case is from the insurance business, where tax avoidance is a part of the deposit instrument.

In Finland tax havens have been used also for tax avoidance. The Finnish government gave a government bill about delimiting the possibility to deduct interest payments. The profitable and tax avoidance system works like this. There is a profitable company F in Finland. A holding company H buys company F. In order to buy F, H must take a huge loan from a company C which is located in a tax haven country. There is also a huge interest for the loan. The interest is deducted in the company H's income and that way deducts taxes. C does not have to pay taxes for the interest income in the low taxation country. The profit is moved to a tax haven. (Hämeen Sanomat, Veroparatiisiyhtiöt, 2012,8.)

According to newspaper Kaleva a new upcoming law will limit companies' rights to reduce their interest rates with the help of tax havens. This means 70 million Euros tax earnings. The law will concern mainly big multinational companies, because that kind of tax planning is made by big companies. There seems to be a loophole in this law anyhow. Outside this limitation will be banking-, insurance- and pension companies. (Kaleva, 2012.) Why is that banking-, insurance- and pension companies are allowed to do that? What happens if a company has a bank as a subsidiary?

Tax avoidance is the gray area between tax observance and tax evasion. Lawyers, accountants, bankers and tax experts are fully occupied by this area. They work for their client. The focus is to pay less tax than might be required by a reasonable understanding of a country's law. Then they focus that tax is paid on profits in a country other than where really earned. (Palan, Murphy & Chavagneux 2010, 10.)

Legally the differences between evasion and avoidance are clear. The reality is more complex. There are countries, which support the legality of tax avoidance. Tax rules in countries are complicated, and avoidance bases on the difficulty to interpret the rules. Then there is the international trafficking over boundaries in a place that has no global tax rules. The tax professionals call that *öarbitrageö*. That means to be able to solve the taxation law by going global and going off shore. Differentiating tax evasion from avoidance is tricky. Therefore, which word to use is as difficult. (Palan, Murphy & Chavagneux 2010, 10.)

In Finland is a case where the persons are already stated as criminals. The legal sentence there is called *öafter-taxö*. One of the persons being *öafter-*

taxedö is a businessman Casimir Ehrnrooth. According to the Finnish tax authorities Ehrnrooth has hidden in a bank in Liechtenstein over 10 million Euros. The tax authorities have laid down about 2 million Euros after-tax for him to pay. The 10 million Euros income has not been declared in Finland. Therefore the authorities claim that a tax fraud has happened. In other words a crime has happened. (Häninen & Pietiläinen, 2013.) 2013.)

In this case the tax authorities have made the decision that no criminal investigations are raised. The National Bureau of Investigation is not investigating the case. According the European Court of Human Rights one cannot be condemned twice for the same crime. If a person has already condemned paying tax penalty he or she cannot be condemned for example into prison. Other Finnish persons örepresentatives of old money, directors of multinational companies (getting premiums) and those who have got a lot of money by selling their businessesö have had money in the same bank in Liechtenstein. The reporter in Helsingin Sanomat wonders, öHow the tax authorities can make the decision if a crime investigation is started or notö. (Häninen & Pietiläinen, 2013.)

8.1 Offshore and tax havens

Tax havens perform a range of legislation and tax rules that are aimed at attracting and developing what is called their offshore sector. That could be also called as harmful competition, free riding, parasitical behavior and cheating (Palan, Murphy & Chavagneux 2010, 19.)

Multinational Enterprises (MNEs) operate through complicated array of subsidiaries, affiliates and sub-contractors in many countries. They are expected to pay tax on profits made in the territory of each of these countries it operates. MNEs have a reason to book financial transactions in low-tax and delicately regulated countries. Large MNEs have their own pension funds. These are also taken the advantage of in privacy regulated low-tax countries. (Palan, Murphy & Chavagneux 2010, 21).

The capital is hardly touching the soil of a tax haven. There is hardly any activity involved. The transactions, are more or lessövirtualö. Therefore, tax havens can be defined asö legislative spacesö. (Palan, Murphy & Chavagneux 2010, 21.)

Over half of the world trade and the banking assets flow through the tax havens. A third of the multinational companiesö direct investments pass through tax havens. About 85 percent of the international banking and bond issuance happen in the so-called Euromarkets, which is a stateless offshore area. The International Monetary Fund, IMF, estimated in 2010 that there was about \$18 trillion worth of assets in the small island financial centers. That is one third of the worldö gross domestic product, GDP. U.S Government Accountability Office as U.S GAO, reported in 2008 that 83 of USAö 100 biggest corporations had subsidiaries in tax havens. According to Tax Justice Network report in 2009, 99 Europeö 100 biggest companies used offshore subsidiaries. In every country the overall biggest user of the tax havens is a bank. (Shaxson 2011, 13.)

Shaxson defines tax havens in his book *Treasure Islands Tax havens and the men who stole the world*, like this: "a place that attracts business by offering politically stable facilities to help people or entities get around the rules and regulations of jurisdictions elsewhere" (Shaxson 2011, 13). He writes that the whole point is to offer escape routes from the duties from the society and gain benefits. These duties are taxes, responsible financial regulations, criminal laws, inheritance rules etc. Tax havens were called also "secrecy jurisdiction" in USA in the late 1990s. Off shore means elsewhere and this means, that tax havens offer their beneficial services only for them who are from elsewhere and not for them who are from the country. That is called ring-fencing. Only the foreigners get the benefits of low taxes or no taxes at all.

One can identify a tax haven by the fact that its financial services industry is very large compared to the size of the local economy. IMF called UK in 2007 a tax haven, because of the fact that its financial services industry was larger than the size of the local economy. (Shaxson 2011, 14.)

The local politics in tax havens is captured by financial services' interests and democratic politics will not interfere or interrupt the making of money (Shaxson 2011, 15). Corruption and crime is more or less a way to do business for them who do use the services of tax havens. Offshore reduces global taxes and maximizes "operating performance". Henry Harford of Maples and Calder in Cayman calls the offshore countries as the laboratories of pure capitalism. Financial power multiplies with the system. It is the secret empire. (Brittain-Catlin 2005, 53.)

8.1.1 The history of tax havens

The idea of tax havens is based on the modern state system of sovereignty and sovereign equality. A sovereign state has its right to write own laws and follow its own policies like tax laws and regulations with its territory. (Palan, Murphy & Chavagneux, 2010, 18.)

The history of offshoring goes to 1960 s. At that time United States had many regulations and restrictions for the export of the dollar. That way U.S. kept the external trade gap from overheating. Unfortunately there was a demand for the dollar and it led to the currency being traded outside the United States (Eurodollar market). Eurodollar market was born with dollars going offshore, where the U.S. regulations did not affect. U.S. banks opened up offices in countries that permitted the trade in Eurodollars. The City of London became the prime location and dominated the trade in dollars. That way U.S. lost their control and turned the city into the world's biggest finance centre. Along came the tax haven countries close to the United States like Cayman, Bahamas, the Netherlands Antilles and Panama. By the end of the 1970 s, 385 billion Eurodollars were booked offshore and from that \$ 30 billion through the tiny Cayman. (Brittain-Catlin 2005, 8-9.)

8.1.2 Islands and states

There are two tax haven island groups which have their main center in London City. London City is today's global offshore-system's center. The islands: Jersey, Guernsey and The Isle of Man are one of the offshore groups. The other group is the Overseas Territories. Ronen Palan a Professor in International Political Economy, Richard Murphy an accountant and economist and an economist Christian Chavagneux wrote a book called "Tax Havens: How Globalization Really Works". In the book they tell that over a third of all the bank assets can be found in these British havens. (Shaxson 2011, 20,290.)

Cayman Islands is British Overseas Territory located in the western Caribbean Sea. Cayman Islands is the fifth-largest banking centre in the world. It holds external assets of more than \$ 700 billion. When talking about the capital which moves across its shores, Cayman is in a alliance with New York, London and Hong Kong. The overnight checking accounts for banks and corporations, gain millions of dollars every day by avoiding taxes. The George Town banks safes are almost empty, only the virtual presences in the islands give the beneficial effect. (Brittain-Catlin 2005, 8.)

Cayman as many other islands (Bermuda, British Virgin Islands, Turks and Caicos Islands and Gibraltar) is a British Overseas Territory. The head of the state in the overseas territories like Cayman is the British monarch, currently Queen Elizabeth II. The Queen appoints a representative in each territory to exercise her executive power. The representatives have no actual power. The British counterintelligence service MI6 is very active in Cayman, likewise the CIA and other counterintelligence services. This was proven in a case in 2003. A big money laundering trial got stocked in. One of the key witnesses was forced to admit that he had been a MI6 agent. They have a high secrecy level and need not witness. (Shaxson 2011, 21,290.)

In the early 80 s Cayman's businesses was interfered by US Justice Department. US authorities demanded confidential bank account data from Cayman. They accused that Cayman laundered a large amount of money. \$25 billion was laundered annually by the drug trade. Three years U.S. urged Cayman to open up their bank secrecy. Actually U.S. found Cayman as a threat with its Eurodollar market originated from the City of London. This was the main cause for chasing after Cayman. Cayman gave up a little and gave some information. Cayman authorities promised to inform if an unlawful proceeds of crime occurred there. The Americans were satisfied to get even some control over Cayman's offshore benefits. (Brittain-Catlin 2005, 173-175.) As mentioned the head of the British Overseas Territories is ultimately the Queen Elizabeth II. The first time that Cayman had a multilateral pressure on its authorities and its bank secrecy policy was when the Enron case was topical in 1990's. (Brittain-Catlin 2005,177.)

In 1980s a highly ranked US. Internal Revenue Service (IRS) official Vincent Belotsky, noted that United States fit to the definition of tax haven. U.S. applies a zero rate of tax on certain categories on income. Such as interest received by non-resident foreign individual or corporation from banks and savings institutions. To serve more, U.S. banks offer a high lev-

el of banking secrecy to their foreign clients. The foreign clients are also excused from acquired taxpayer identification numbers, their accounts are not reported to the IRS and there is no withholding tax. (Palan, Murphy & Chavagneux 2010, 22.)

8.1.3 Les grands ó wealthy elite

The media king Rupert Murdoch is one of the most skillful users of tax havens. Neil Chenoweth a reporter noticed that the profit Murdoch's company News Corporation reported in Australian dollars was 364.364.000 in 1987, 464.464.000 in 1988, 496.496.000 in 1989 and 282.282.000 in 1990. (Shaxson 2011,15.) In 2007 his successful company's tax rate was six percent. The National Audit Office (NAO) in Britain observed that in 2007 the 700 biggest companies in the country did not pay taxes at all. (Shaxson 2011, 17.) The billionaire Warren Buffet investigated how much his staff paid taxes, he noticed that even the receptionist paid more taxes than he (Shaxson 2011,29). According to Tax Justice Network in 2005 private people's assets in tax havens was \$ 11, 5 trillion (\$11,500,000,000,000). To compare that is a quarter of the whole world's assets and is equal to USA's GDP. (Shaxson 2011,31.) The magazine Guardian investigated the three biggest banana corporations' turnovers. Del Monte, Dole and Chiquita had an overall turnover in Britain of \$750 million (\$750,000,000) and they paid taxes together only \$235.000. (Shaxson 2011,17.)

In Finland the tax avoidance/planning is used by the big multinational companies (Kiviranta, 2012).

A tax scandal was revealed in Denmark in 2010. Over 140 billion Euros had been transferred through tax havens from Denmark. This is a loss of taxes. (Säntti 2010, 17.)

8.1.4 Beneficial laws

In Cayman there are eleven Company Laws. That is the only area of law where there are many amendments. In USA the volumes of bankruptcy and insolvency laws are huge. Those are covered in Cayman with few pages. In comparison labor and trade union laws don't exist in Cayman. Henry Harford, of Maples and Calder law firm in George Town in Cayman, explained that the laws have stopped in a time of English laws in the nineteenth century, before the rise of the welfare state. There is no consumer law, no social welfare, and no employment law. In Cayman you are responsible for yourself in business, because there are no contract law rules. Cayman underwrites the risk elsewhere. Many companies avoid the owners' responsibilities, those that are hard to insure onshore risks like pollution or product liability. These companies insure themselves through Cayman subsidiaries in order to utilize the island's liberal underwriting atmosphere. One example from the 1970's is the Harvard Medical Group in USA. The company moved to the Bahamas seeking to insure themselves against medical malpractice suits in USA. At that time Bahamas

didn't take Harvard Medical Group. Cayman accepted it instead. Cayman drafted an insurance law for the companies needs. About half of the insurers in Cayman are U.S. health care companies where the laws are tailored for their needs. (Brittain-Catlin 2005, 11-12.)

Anthony Field the managing director of Castle Bank & Trust (Cayman) Ltd. landed in Miami airport in 1976. He was to testify before a U.S. grand jury as part of an investigation about tax evasion and money laundering through offshore banks in the Caribbean. The Internal Revenue Service (IRS) had investigated the case for ten years. IRS had gathered a mass of evidence about how the U.S. tax system had been gradually weakened by tax havens. They noticed that billions of dollars were washed through Caribbean islands in order to avoid tax at home. Castle Bank was considered to be responsible for the tax evasion of the wealthy Americans. Field was expected to tell the names of American clients for the grand jury. Cayman responded with a rapid legal drafting and produced the Confidential Relationships (Prevention) Law. That way Mr. Field did not have to tell the customers names. "No information relating to a customer or client account with any institution within the local financial community can be divulged to anyone. A foreign government investigating a case relating to a crime other than a tax offence may request this government to assist it in providing the relevant information...Such a request would be examined to ensure that the purported offence would, if committed in the Cayman Islands, be an offence under Cayman statutes." That means that it would be a crime to tell any details about any banking arrangement made on Cayman. That way the Castle Bank could keep their customers and the customer could avoid being accused about tax evasion, including Playboy publisher Hugh Hefner, actor Tony Curtis and the owners of the Hyatt hotel chain. California tax attorneys used Castle and other offshore banks and offered fraud loans to assist wealthy clients evade \$ 1.4 million in taxes. The customers could claim back tax deductions on loan interest that was never paid. (Brittain-Catlin 2005, 33-36.)

Earlier it was mentioned that US. is considered to be a tax haven by applying zero tax for foreigners' income. U.S. also provides for the foreigners a high secrecy level. Those foreigners who have "hidden" their money in the U.S. banks have a secure service. The U.S. banks can receive "dirty money" as long as the crime is not made in U.S. territory. With another words, the criminals from all over the world can safely deposit their criminally earned money in an U.S. bank and at the same time launder it. The banks are also allowed to keep the secrecy of the depositor's identity. Florida is specialized in serving the Latin American elite. That means that most of the capital which ends up in the Floridian banks is either tax evasion or criminally earned money. (Shaxson 2011, 23-24.)

The tendencies of the anti-money laundering directions are ruined by the secrecy of the tax havens. For example, the Third Anti-Money Laundering Directive by EU includes the regulation of the beneficial owner. This was defined in the chapter 3.2. This kind of clarification does not give very much information, when the owner most often a company lies in the tax havens. This way the good meaning of the directive is useless.

8.1.5 The Transfer pricing

The transfer pricing allows a multinational corporation fix the external price as they see fit the costs of the goods and services they move around the world for production and later for sale. According to the OECD over half of the world's trade is made up of transfer pricing. Transfer pricing means for the corporation that with a suitable external transfer price they can avoid taxes. (Brittain-Catlin 2005, 47-48.)

That is what Chevron, Exxon, Mobil and Texaco did in the 1980's and early 1990's. Saudi Arabia sold crude oil to the American companies at below-market prices. Then the buyers; the companies sold the crude to their non-U.S. refining affiliates without profit. The affiliates sold the refined oil at market price to foreign buyers. The affiliates' profit is this way away from the U.S. tax authorities. The U.S. tax authority IRS claimed that the oil companies evaded \$ 6.5 billion taxes by using transfer pricing. The case was settled by Chevron and Mobil. Exxon and Texaco fought and won their case in 1997. (Brittain-Catlin 2005, 49.)

Also the Finnish tax authority claims that some 320 million Euros is evaded using the transfer pricing trickery (Kiviranta, Yle, 2012).

In 1992 IRS charged Apple with avoiding corporate taxes some \$586 million between years 1984-1988. Apple manufactured the computers in Singapore. Using transfer pricing Apple sold the computers to the Cayman company, which sold the Singapore-produced Macintosh to America. The high profit came to the Cayman company. Because of the tax 'free' Cayman the company did not pay any tax for the profit. Apple settled the case. (Brittain-Catlin 2005, 51-52.)

In 2004 two former financial controllers of Swatch claimed that the company used its offshore subsidiary in the British Virgin Islands to evade taxes by manipulating intercompany prices. They assumed that the evaded tax amount was some \$180 million. The watchmaker with brands like Swatch, Omega and Longines declared that it was 'normal practice' and they never meant to evade taxes. The former employees took their case to the U.S. authorities. U.S. had to say that it had no jurisdiction over the matter. (Brittain-Catlin 2005, 52.)

The U.S. House of Representatives made a study in 1990. The study reveals that \$35 billion a year was lost in federal taxes because of the transfer pricing. More than half of forty foreign companies in the U.S. paid virtually no taxes over a 10 year period. U.S. taxation lost through transfer pricing about \$50 billion by the end of the 1990's. (Brittain-Catlin 2005, 53.)

Cases in U.S. do go to tax courts. In 1992 \$32 billion in uncertain revenue was engaged in proceedings. Unfortunately they last for years and pump out public funds. Mobil Oil, now ExxonMobil presented 1.3 million pages of unlabeled documents as part of their evidence in one case in 1989, which delayed the matter for years. In 2003 ExxonMobil at last reached an agreement to end an argument that started in the early 1970's. (Brittain-Catlin 2005, 53.)

An agreement means in U.S. that there will not be a criminal prosecution. The matter is agreed and most often so that a sum of money will be paid by the accused party. In a way the other party admits the crime, but since the agreement is made, there is no crime. The other way would be to wait for years and use the public money to keep the trial going on and get the

sentence of crime. This is the reason that there are seldom any crime sentences for multinational corporations in U.S.A.

8.2 Tax agreements and instruments to limit taxes

Many countries have tax agreements in between. Tax treaties are used to remove international double taxation of income and capital and to divide taxation rights between the contracting states. Tax treaties concerns natural and legal persons who are resident in one or other or both of the contracting states and who have income or capital linking them in some way to both contracting states. Finland concludes tax treaties only with countries whose taxation systems correspond to the Finnish system of income taxation. Finland currently has tax treaties in force with 60 countries, based mainly on the OECD Model Tax Treaty. Finland has also concluded inheritance tax treaties to remove double taxation in respect of inheritance tax and to divide taxation rights between contracting states.

Mutual assistance treaties concerning taxation allow exchange of information and recovery of tax claims from contracting states. (Valtionvarainministeriö 2012.)

There are over 2.500 tax agreements in the world. Two institutions are responsible of international commercial standards and concerns over tax agreements, OECD and UN.

A Finnish millionaire Jussi Salonoja is the hockey team Blues Hockey's chairman of the board. His team is owned by an insurance company Lombard International Assurance S.A in Luxemburg. Lombard bought Salonoja's company Erja in 2005. Blues Hockey was owned by Erja at that time. Most likely Salonoja is still the owner of Erja and Blues Hockey. He just wrapped up his property with an investment insurance wrapping paper by Lombard. Most often a tailor made investment insurance includes many kinds of securities. In 2005 Erja's balance sheet was valued 63 million Euros and it gave worth 30 million Euros dividend for its owner. The insurance company can within the individual insurance buy and sell investments and there is no capital income taxation. You pay taxes only if you come up with profit. The investment insurance reduces also inheritance and gift taxes. The investor takes money that is the fund without paying any tax. You can defer your taxpaying until later. In Luxemburg the tax for profits is also much lower than in Finland. (Heiskanen, 2008.)

According to Turun Sanomat one can avoid paying taxes over your pension income, if you move to Morocco. A Finn can consume his whole pension income in Morocco by moving there. There is no tax agreement between Finland and Morocco although Finland made one in 2006. His majesty The King Mohammed VI has not signed it. All treaties like that have waited about 15 years on his desk. (Turun Sanomat 2010.)

Same kind of benefit can pensioners achieve in Portugal. (Turtola, 2014).

8.3 A cartel

A cartel is a profitable business agreement. Officially it is illegal and the earnings are criminal. This way the money earned is dirty and thereafter operations with that money is money laundering or at least the use of criminal money. There have been cases in EU and penalties have been given.

The latest case is about Swiss Franc interest rate derivatives. Fine p 32.3 million. The European Commission found that RBS, UBS, JP Morgan and Credit Suisse banks operated a cartel on bid-ask spreads of Swiss franc interest rate derivatives in the European Economic Area (EEA). (European Commission Press Release Database, 2014).

9 INTERNATIONAL CASES

There are many big cases concerning money laundering and criminal earnings. All cases are not even known or are difficult to argue scientifically. If the case is not taken in front of a court it is a matter of opinion or a claim. However these cases here still give a glance over what is happening in the world's economy. The cases consist of how the criminal earnings are made and how they are laundered. This means, that some of them do not describe how they launder the criminal earnings, but how the earning is made. If the process is never proved to be criminal, there is no need to launder the proceeds. We talk about arbitrage here before. They are cases which are not clear crimes but the offenses are as a criminal activity. That way the proceeds are not dirty, but can be parallel.

9.1 The Parmalat

In 1960s a local milk producer started in south of Milan. Calisto Tanzi's company was later the eight-largest corporation in Italy and had more than 35,000 employees in thirty countries. In the early 1990s was publicly listed on the Milan Stock Exchange. Thanks to the listing the company embarked in a short period of time into Latin America, especially in Brazil. Parmalat became a dominant milk producer in Brazil at the time. Tanzi kept a low profile at the beginning. He was not like his colleagues in Italy; Benetton and Berlusconi. Later he became more famous by flying off with his family in his private jet to check deals and offerings. Tanzi and his son Stefano made the football team AC Parma their family concern. How did Parmalat manage to grow into such a giant? One reason is its huge offshore network by the Parmalat entities. The other reason was the growing debt problem. The offshore network contained Singapore, the Netherlands Antilles, Malta, Mauritius, the Cayman Islands and the onshore havens like Luxemburg and Delaware in U.S. They used the entities to exchange the profits and losses and transform them within the company and let them land in a place with the best tax advantages. (Brittain-Catlin 2005 161-162.)

By the time, Parmalat had debts over \$18 billion and the offshore network offered the secret mechanism to hide the debt and sneakily turning it into equity and other assets. That way Parmalat looked good on the world's stock and bond markets. Like with Enron the entities helped Parmalat trick the growth and expansion and disguise the threatening bankruptcy. Calisto Tanzi steered money from his company like Andrew Fastow did from Enron. (Brittain-Catlin 2005, 162.)

The first outward signs that Parmalat was in trouble, came in the beginning of 2003. There was a planned Parmalat bond issue worth \$360 million. At the same time the company's share price met a fall of 9 percent by the markets. The bond issue was withdrawn, meaning that the company is cash-rich and need not to raise money on the capital markets. The markets

changed to better quickly and the withdrawn bond issue was done. No one ever had any second thoughts. (Brittain-Catlin 2005, 164.)

Later Standard & Poor put the investment-grade rating down and the governing body of Milan's stock exchange asked Parmalat for extra guarantees for the coming debts due before the yearend 2003. Parmalat came up with new information, that they had a Caman-based fund, Epicurum in which they had invested \$600 million. Parmalat told that the fund had given the company \$50 million earnings. Still Tanzi was unable to tell the size of neither the fund nor the assets used. Weeks later Parmalat told that it could not recover from its multimillion-dollar investment for Epicurum. The rating fell down and the trading was suspended. (Brittain-Catlin 2005, 164.)

In 2002 Parmalat's accounting showed that its subsidiary in Cayman had an account with the Bank of America. It contained cash and securities worth \$5 billion. But the Bank of America did not agree, when asked later. Few days later files were held in a police raid on a Parmalat office outside Parma. The scale of Parmalat's black hole was \$17.8 billion. (Brittain-Catlin 2005, 165.) In 2010 Calisto Tanzi was sentenced to 18 years, having admitted to money laundering among other accountancy fraud (Moloney, 2010).

Using the offshore subsidiaries Parmalat could switch the debts and the profits so that it looked like a successful company to outsiders.

9.2 Bank of Credit and Commerce (BCCI)

The Bank of Credit and Commerce, BCCI, was a perfect example of escaping government control and regulation so as to achieve a stunning internationalization of operations and expansion of services. BCCI had holding companies in Cayman and Luxemburg and a head office in London. It grew faster than any other bank in the world in 1970's having 146 branches in 43 countries. It expanded into Africa, South- and Northamerica, Asia, Middle East and Europe. The offices were in 73 countries and the balance sheet assets were \$22 billion. It was closed down by the Bank of England with losses of \$10 billion. BCCI is the bank which has cheated individuals and corporations. It has falsified own accounts and most of all laundered money for drug dealers and organized crime. (Brittain-Catlin 2005, 176-177.)

The bank had a visible presence in Cayman. It had its hundreds of shell companies in Cayman, through which many suspected loans were transferred and the fake assets were made. They were under protection by the Cayman's secrecy law. (Brittain-Catlin 2005, 176-177.)

Robert Mazur served for twenty-seven years as a special agent for the IRS Criminal Investigation Division, the Customs Service, and the Drug Enforcement Administration in USA. He spent five years undercover infiltrating the criminal hierarchy of Colombia's drug cartels. He wrote a true story book called *The Infiltrator*. He was in danger while infiltrating in the Columbian cartel as one of the members. Operation C-Chase was one of the most successful undercover operations in the history of U.S. law enforcement, and evidence gathered during the arrest enable the conviction of General Manuel Noriega. It helped bring down the unscrupulous bankers who manipulated complex international finance systems to serve drug

lords like Pablo Escobar, corrupted politicians, tax cheaters, and terrorists. It is a broad and shocking true story of a rise and fall of a money-laundering operation of one of the kind. It exposed an enterprise that cleaned and moved hundreds of millions of dollars a year. The Bank of Credit and Commerce was one big player in Mazur's book. (The Infiltrator, 2009.)

An Indian born banker Agha Hassan Abedi established BCCI in 1972. That was supported by some Saudi Arabian royal families and Abu Dhabi's monarch. BCCI grew rapidly. The business idea was to create an image of a reliable enterprise and to make friends with powerful people and do whatever they need. BCCI bribed politicians and presented services to people like Saddam Hussein, a terrorist boss Abu Nidal, Columbian Medellin's drug cartel, an Asian heroin king Khun Sa. The bank also got involved with nuclear weapon business and its subsidiaries in Caribbean and Panama served the Latin American drug business. It served drug business for Arabian, Pakistan, Iran and Afghanistan also Laos, Burma and Thailand by its Hong Kong office. (Shaxson 2011, 148.)



Figure 15 Agha meeting the Pope (Tribune, 201)

Abedi knew that the bank needed to have more credibility by operating in the centers of finance. That kind of a place needed to be flexibly controlled for BCCI's business ideas. That place was London City. In 1972 BCCI established its headquarters in one of the luxury buildings in the City. (Shaxson 2011, 150.)

BCCI also used a trick how to raise its equity capital, which is the base of every bank's safety. The bank in Luxemburg which was BCCI's subsidiary in Luxemburg, lends money to a BCCI's shareholder, who was Abedi's friend. The friend transferred the money to the subsidiary in Cayman in order to raise its equity capital. The Cayman subsidiary lends money to a shareholder who saved money in the bank in Luxemburg. This trick raised the equity capital from \$ 2, 5 million to \$ 850 million by 1990. (Shaxson 2011, 151.)

Investigations started in U.S. by some brave public authorities 1991, even thought that BCCI had very deep relations with CIA and many powerful instants and people. BCCI was a "fine bank" said powerful people in Washington. The problem was to get information, thanks to the offshore structure. Most authorities denied giving an assistance or information. The bank of England refused to help in any way. The Ministry of Justice in UK

refused. They all said that there was not enough evidence. Investigators did not understand. What kinds of evidence? In U.S. BCCI was accused of fraud 2,5 years earlier and the bill of indictment mentioned that money laundering is the bank's main strategy. In 1990 some of the employees in BCCI had sent a letter to the Ministry of Finance in UK and to the Bank of England that the terrorist leader Abu Nidal had 42 accounts in BCCI. The Bank of International Settlement BIS had declared its concern and the Price Waterhouse had supplied the 'Naqvi folders' to the Bank of England. The folders exposed a broadly-based bluff of framed companies, unregistered savings, and false loans etc. Yet the Bank of England found that any investigations were not necessary. After the Senator John Kerry threatened to raise the case in public, the Bank of England accepted to disband BCCI in UK. The chief executive officer of the Bank of England Robin Leihg-Pemberton said afterwards that 'the existing financial system had served our community very well. If we would close a bank every time we find a case of fraud there would be much less banks than now'. The Leihg-Pemberton's statement proves that by that time London City was a leading center of offshore system. (Shaxson 2011, 152.)

9.3 Long-Term Capital Management (LTCM)

Money laundering is not anymore a marginal economic activity. As here before, globalization and all kinds of integration within the financial markets and technological innovations have provided many opportunities both the legal and illegal economies. Very profitable laundering provides the the criminal syndicates to expand their influence throughout the legal economy without getting any legal sanctions. In a report for the European Commission 1999, it noted of the turbulent growth of illicit markets, which force EU to see Mafia as a structural component of modern geopolitics. How can the growth of illegal markets be controlled. These challenges are manifested in the case of the collapse of the hedge fund Long-Term Capital. (Hinterseer, 2002,2.)

Long-Term Capital Management (LTCM) was founded in 1994 The founder was a Salomon Brothers trader, John Meriwether and the main shareholders were Nobel prize-winning economists Myron Scholes and Robert Merton. They all were experts in investing in derivatives and to make higher returns than average and break the market. (Brittain-Catlin, 2005 179-185.)

Investors paid \$10 million to join the fund. They had to keep the money in for at least three years and were not informed about the types of investments LTCM used. The actual fund was in Cayman. (Brittain-Catlin 2005,179-185).

LTCM's hedge fund (\$ 126 billion) almost collapsed in 1998. The Federal Reserve helped by bailing it, because it was too big to fail. (Kimberly, 2012.)

The President's Working Group on Financial Markets investigated LTCM's collapse. It concluded that the main reason for the hedge fund's death excessive leverage. Its balance sheet leveraged 28 times and had notional derivative positions US \$ 1, 5 trillion. This was an impossible configuration to solve or at least not very likely. Even that LTCM conducted

its business which was both legal and legitimate; it has nuances of the problems presented by money laundering. The arbitrage opportunities they used concerning Russia. That was their most lucrative area. After the Soviet Union's collapse, Russian government sought to change the communist state into capitalist society. LTCM found that it could make a good profit from this situation. The way was to use a derivative contract known as a non-deliverable forward. (Hinterseer, 2002,4.)

Russian suffered over capital flight and money laundering. The capital flight forms a term called Hot money. Both swap and derivative contract were in dollars. That way LTCM could avoid the questioning over having deals in roubles. (Hinterseer, 2002, 3-4.) The figure 16 illustrates the trading with Russians (Hinterseer, 2002).

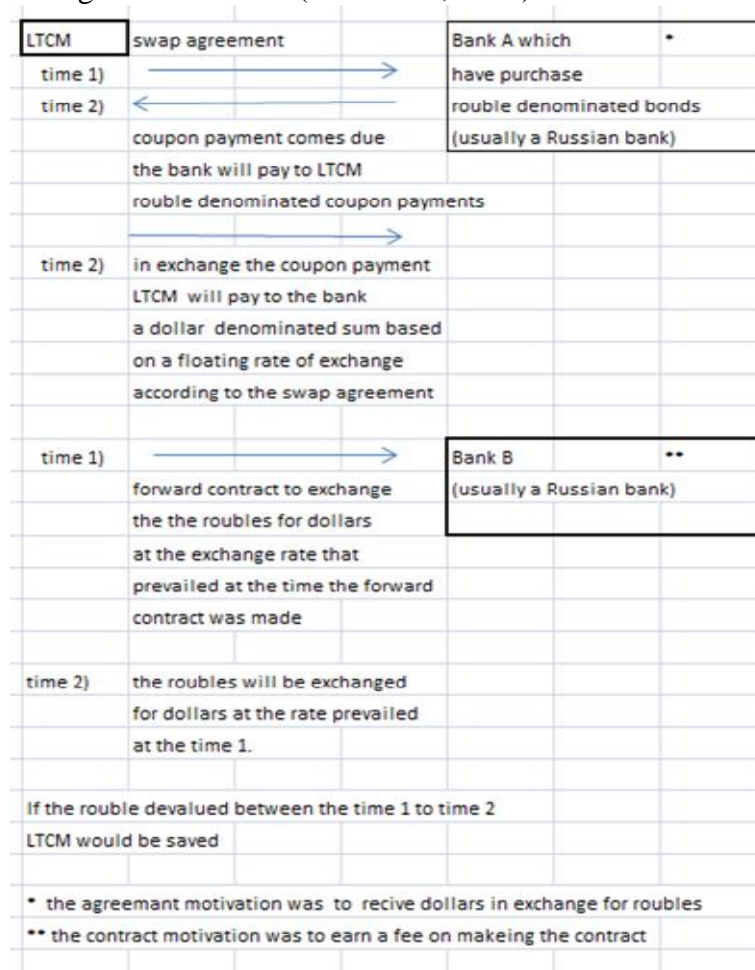


Figure 16 LTCM's non-derivative contract with Russians

9.4 Enron

Enron had 692 subsidiaries incorporated in Cayman alone in 2000, the year before it went bankrupt. It had 119 companies registered in Turks and Caicos Islands and others in Mauritius, Bermuda, Barbados, Panama and Guernsey. The offshore network was set up to avoid taxes. On paper Enron made profit about \$2 billion between 1996 and 2000. But paid tax only one year during that time. It paid U.S. corporate federal income tax \$17 million in 1997. At the same time it got U.S. federal tax rebates of \$381 million and picked up a rebate of \$278 million in 2000 for deductions on

its executive stock options. According to a study by "Citizens for Tax Justice" about the Fortune 500 companies, twenty-four of them paid no tax in 1998 and almost 50 the year before. (Brittain-Catlin 2005, 55-76.)

9.5 HSBC

Earlier it was mentioned that in U.S. many cases can be settled in court by paying money. That is their official way there. One of a kind is just released case, the UK banking giant HSBC, Europe's largest bank. U.S. Department of Justice made an agreement (DPA) with HSBC (Burghardt, 2012).

The bank was founded after the First Opium War 1865, when Hong Kong was seized from China. Ever since, the bank has been on the radar of U.S. law enforcement and regulatory agencies. That is for more than a decade.

Now there is a 335-page report "U.S. Vulnerabilities to Money Laundering, Drugs and Terrorist Financing: HSBC Case History" made by the Senate Permanent Subcommittee on Investigations. The report tells that amongst the "services" offered by HSBC subsidiaries and correspondent banks were deals of billions of dollars with financial entities with ties to international terrorism and the macabre drug trade. They laundered blood money for Mexican and Colombian drug cartels. (Homeland Security & Governmental Affairs, 2012.) HSBC's London office in Canary Wharf conducted a highly profitable business with the supposed financiers of the 9/11 attacks who laundered funds through Saudi Arabia's Al Rajhi Bank. (Burghardt, 2012).

The levy was some \$1.92 billion which included \$655 million in civil penalties. That is the largest penalty of this kind ever levied against a bank. According to the agreement not a single senior officer is criminally charged. The fines will be paid by shareholders, municipal investors, pension funds and the public at large. (Burghardt, 2012.)

Senate investigators found that HSBC provided with its correspondent banks services for drug traffickers, other organized crime groups and terrorists. The U.S. dollar services included services to move funds, exchange currencies, cash monetary instruments, and carry out other financial transactions. The phenomenon is old and in Stephen Bender published decade ago an article that 99.9 percent of the laundering money that is presented for deposits in U.S. gets into secure accounts. In the case of HSBC the assets for example in Cayman accounts were \$2.1 billion in 2008. (Burghardt, 2012.)

The senate investigators found that the drug money in Cayman originates from Mexico. There were no personnel in Cayman. The Cayman branch was managed by the branch office in Mexico. The Mexican HSBC (HBMX) had no idea who was behind the accounts. (Burghardt, 2012.)

The HSBC case was one of many, but it started a movement in the American financial system. Lanny A. Breuer, the head of the Justice Department's criminal division, created a money-laundering task force that has collected over \$2 billion in penalties from banks. (The New York Times, 2012.) The Justice Department, the Treasury and the Manhattan prosecutors disclosed six foreign banks in recent years. Some of them are Credit

Suisse, Barclays, ING Bank, which made a settlement of \$619 million for transferring billions of dollars in the United States for countries like Cuba and Iran. In 2012 federal and state authorities made a \$327 settlement from Standard Chartered, a British bank. They had transferred dollars for Iranian and Sudanese clients through its American subsidiaries. (Protest, 2012.)

Today one can read from HSBC's site a text like this "Learn about our history, our purpose, and our strategy to become the world's leading international bank. Get information on our leadership team and our global network." Also under the "Citizenship" you find a text; "We recognize that we have responsibilities not only towards our customers, employees and shareholders but also to the countries and communities in which we operate." (HSBC, 2014).



HSBC officials testifying before the US Senate about the bank's systematic anti-money laundering failures. Across all banks, senior executives need to be held to account for the actions of their institutions.

Figure 17 (Global Witness, 2013)

9.6 BP, MBNA, Apple Computer

In 2002 BP one of the largest oil companies had more than \$500 million in offshore capital invested in various financial instruments to speculate on the money markets like a bank. At the same time Apple Computer had \$520 million at its disposal, pooled offshore in Cayman and other tax havens. MBNA Corporation a credit card company had \$198 million in tax havens and Citigroup had \$1.3 billion freed up for indefinite investment to avoid paying £399 million in U.S. federal income tax. In 1999 U.S. multinational corporations had total \$400 billion of untaxed earnings floating in offshore pools. (Brittain-Catlin 2005,43-44.)

Apple paid under two percent taxes of its result in 2011. Apple has transferred its result through its Irish subsidiary to its Dutch subsidiary

bookkeeping. From Holland the assets have been further transferred to another Irish subsidiary and further to a well known tax haven in the Caribbean Islands. Apple is known as one of the most valuable corporations in the world. The result for year 2011 was almost \$37 billion. (Kauppalehti, 2012).

Offshore and transfer pricing are kept secret by the global companies so that the competitors wouldn't steal their priced tax reduction strategies. U.S. multinationals are the undisputed masters of corporate tax reduction. General Electric's have cut its tax rate from 27 percent 1999 to 16 percent in 2003. Citigroup cut tax rate in 2003 saving \$778 million. Financial Times survey in 2003 found that sixty-eight top-performing U.S. multinationals got a total \$8.1 billion savings by cutting their tax rate down by just 2 percent. (Brittain-Catlin 2005, 45-46.) According to the OECD over half of world trade is made up of transfer pricing with corporations (Brittain-Catlin 2005, 48). The U.S. oil companies bought oil from Saudi Arabia. The crude was priced under the market price. American oil companies sold the crude to non-U.S. refining affiliates. Then this affiliate sold the crude at market price to foreign buyers at market price. The largest-ever tax case U.S. government claimed in the 90's. The IRS claimed that the oil giants owed \$6.5 billion in taxes. (Brittain-Catlin 2005, 49.)

9.7 Goldman Sachs and Paulson & Co.

The Abacus was a financial product by Goldman Sachs. Goldman Sachs defrauded investors by misstating and omitting key facts about the product. It was tied to subprime mortgages as the U.S. housing market was beginning to fall. The product was again used as a derivative by a third party Paulson & Co. Goldman Sachs advised two of its clients to accept a \$1 billion bet over sub-prime mortgage bonds that they knew were going to fail. Goldman Sachs did not tell the clients that the person they were betting against, John Paulson, had actually fixed the chances in his favor. The client paid the bet to Goldman Sachs via some credit default swap insurance. Goldman collected a \$15 million fee for the deal. Paulson got \$1 billion. U.S. Securities and Exchange Commission (SEC) charged Goldman Sachs with failing to give vital information about Paulson's conflict that he helped select the mortgage bonds and were betting against them. Goldman accused that they do not disclose the identities of a buyer to a seller and vice versa. Only the Goldman Sachs vice president Fabrice Tourre and Goldman Sachs was charged, not Paulson. (U.S. Securities and Exchange Commission, 2010.)

9.8 Libor the \$300 trillion hoax

Libor, the London inter-bank lending rate, is considered to be one of the most important interest rates in finance, upon which trillions of financial contracts rest. Libor is a global benchmark interest rate used to set a range of financial deals, like mortgages, loans, inter-bank lending. It is also a measure of trust in the financial system and the faith banks have in each other's financial health. The Libor, or London Interbank Offered Rate, is

used to set a range of financial transactions worth an estimated \$300 trillion (equals four and a half times global GDP). Every day a group of leading banks submit rates for 10 currencies and 15 lengths of loan ranging from overnight to 12 months. The most important is the three-month dollar Libor. The rates submitted are what the banks estimate they would pay other banks to borrow dollars for three months. (BBC NEWS BUSINESS, 2012.)

Here is an example how it works.

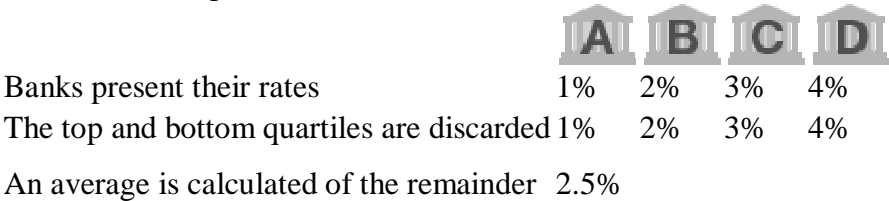


Figure 1 Figure 18 How Libor works (BBC NEWS BUSINESS, 2012)

At the height of the financial crisis in late 2007, many banks stopped lending to each other over concerns about their financial health with some banks submitting much higher rates than others.

Since the rates presented are estimates not actual transactions it's relatively easy to present false figures. Traders at several banks conspired to influence the Libor by getting colleagues to present rates that were either higher or lower than their actual estimate. (BBC NEWS BUSINESS, 2012.)

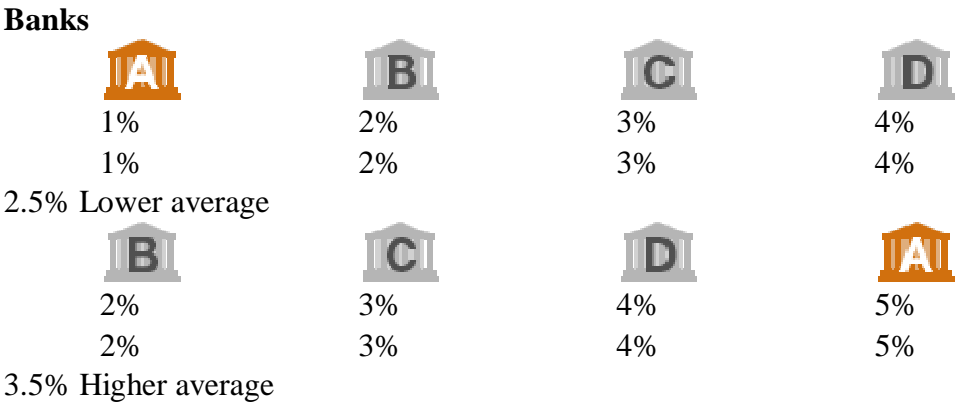


Figure 19 submitting false rates (BBC NEWS BUSINESS, 2012)

Barclays was one of those presenting much higher rates, attracting some media attention. This encouraged comments that Barclays was in trouble. For that reason Barclays began to submit much lower rates. There is a

graph below which compares the Libor rate with those submitted by Barclays.

Barclays' Libor 3-month sterling submissions vs. daily Libor fix

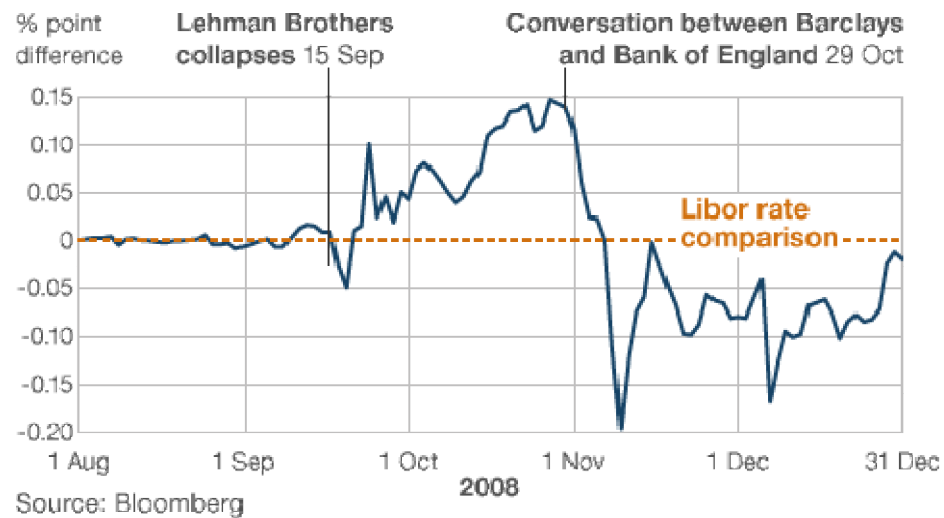


Figure 20 Barclays' Libor 3-month (BBC NEWS BUSINESS, 2012)

The Libor scandal has further damaged the trust in banks.

Those who were paying interest on loans would have benefited from lower Libor rate, whereas savers and investors would have lost. The investigating goes on in Canada, US, Japan and Switzerland by the regulators. Lawsuits have been launched by US municipalities, pension fund and hedge funds. (BBC NEWS BUSINESS, 2012)



Figure 21 Libor Score Card, (Bloomberg.com, 2013)

9.9 Illicit Financial Flows from Developing Countries: 2002-2011

Nicolas Shaxson a British author and journalist write in his book *Treasure Islands* (2011) about how much capital flows from Developing Countries. Blood flew in Angola where Shaxson also was as a correspondent. In 1992 Angola could not buy weapons openly because of the ban on sales to Angola, it turned to use other channels. A rich Russian-Jew Arkadi Gaidamak engineered by using offshore systems \$ 800 million funding for Angola to buy weapons from a Slovakian company. The arrangements gave 65 percent profit and later Angola's loan to Russia was \$ 6 billion. Angola was to pay back with oil. (Shaxson 2011, 153-154.)

Gaidamak gave an interview to Shaxson in 2005 in Moscow. Gaidamak was hiding from an international detainer in Moscow. He gave a good statement of offshore. "In market economy countries it is impossible to make money because of the all regulations, taxes and terms of employment. One can only make results in countries like Russia where there is a time a redistribution of capital going on. It is a question of Russian money. And the Russian money is not clean or explainable. How can one earn \$ 50 million in today's France? How? Explain that to me." (Shaxson 2011, 153.)

There are similar offshore designs in Africa which have absorbed the aboriginal peoples' natural resources. Angola's oil and diamond earnings have

disappeared and are channeled through two trusts in London. (Shaxson 2011, 153.)

In the book *Blood Bankers* McKinsey consulting company's former head economist Jin Henry states that offshore-banking system produced many bloody crises in developing countries. First the banks lend money to poor governments, more than they could handle. Then the banks taught the local elite how to rob, hide, launder and transfer to tax havens. After this the banks demanded with the help of IMF the governments to amortize their loans with an economical threat. In Henry's book there are many international cases mentioned how for example President Ferdinand Marcos in Philippines organized government's loans for him and his supporters. (Shaxson 2011, 157.)

Global Financial Integrity in Washington, GFI, has published a report over the capital flows from developing countries. The developing world lost \$ 946.7 billion in illicit outflows in 2011 an increase of 13.7 percent over 2010. Due to crime, corruption, tax evasion, and other illicit activity. During 2001-2011 developing countries lost \$ 5.9 trillion capital to illicit outflows which is region averaged 5.7 percent of GDP annually. (Global Financial Integrity, 2011.)

In UN's a meeting about taxes in Genève 2009, a British member rouse up mutinously with the member of Liechtenstein in order to resist the discussion. It was about respecting the development countries opinion over tax decisions. For all it was obvious that these two members protected more or less the British and U.S.'s interests. (Shaxson 2011, 161.)

9.10 The Finnish way

Many asked afterwards, what really happened during the recession in the 90's. The financial market overheated after regulations released in the 80's. Lending became a true business and the interbank-markets were created. The law of money laundering was laid down first in 1994 in Finland. Before that, all kinds of money were carried into the Finnish banks' safeties. And inflation ran ahead all the time. Maybe someone wanted their money back all the sudden or what happened. But it all started to fall apart.

As this is not a work of law thesis, there will not be any evidencing how illegal the actions were then. When a government makes a secret agreement with banks about how to 'arrange' loans, is a question of, how legal that is? 'It is necessary to strengthen the banks' structure. It means to use extremely forcible ways in order to get the banks' profitability better. (Appendix 1/1). This is a free translation of the agreement, called 'Luovutus sopimus' which the Finnish Government made with the existing banks in the 14 of November 1993. One signatory was Minister Iiro Viinanen and others represented the banks like Kansallis-Osake-Pankki, Osuuspankkien Keskusliitto, Postipankki, Unitas and Suomen Säästöpankki. Today they are known as Nordea, Pohjola and Danske Bank. The agreement made possible to convict the entrepreneurs' loans as non-performing loans. Non-performing loan means that there is a risk that the entrepreneur cannot pay back. The definition is a question of the contract terms, which should be the main source to use when to define if the loan is a non-performing or not. But the third party agreement made it

possible to define it differently. The agreement defined that if the entrepreneur's main activity is:

- investing in properties or comparable
- other investment
- construction business, constructing
- retail business of any kind
- hotel and restaurant business
- leisure business

(Appendix 1/17)

The loans of these kinds of entrepreneurs are non-performing. One can always ask, what is left outside? There are banking, insurance, advocacy, auditing etc. kind of businesses.

As there were many other definitions in the agreement and as the observing was sketchy, all kinds of tragedies were made by the powerful political command. The indefinite situation was supported by the President Mauno Koivisto. He convoked earlier in the 6 of May 1992, all the necessary parties representing the Finnish judicial system. It was called an "Oikeuspoliittinen keskustelutilaisuus". Free translation is a teach-in how the judicial system must work. (Appendix 2/1). A participant remembers later the purpose of the meeting. "It was to pressure the Supreme Court make favorable adjudications concerning cases between banks and entrepreneurs; in favor of banks. (Appendix 3/1, confidential for thesis instructors only). Unfortunately there is no minute over the seminar. During President Halonen's reign the minutes was made secret.

Before this seminar there was a performing session in the Presidential residence. According to the book "Kaksi kautta" Mauno Koivisto writes like this:

"Allalla 2. maaliskuuta 1992 järjestettiin Linnassa talouspoliittinen keskustelutilaisuus, johon osallistui parisenkymmentä talouden asiantuntijaa yliopistoista, talouselämästä ja hallinnosta. Hänen arvioonsa (Björn Wahlroos) pankkien tilasta sisältyi todellinen pommi: Ainoa huoli, joka minulle syntyy näistä kahdesta puheenvuorosta on, että se todellisuus, jonka näemme ympärillämme, on aika karmea jo tänään. Työttömyyden kautta, konkurssien kautta olemme opettamassa kokonaista sukupolvea suomalaisia siihen, että yrittäminen ei kannata. Pankkien ja työeläkejärjestelmän koko toiminta perustuu sille, että tiettyä varallisuutta, jota se voi moninkertaistaa esim. vakavaraisuussäntöjen kautta. Tosiasia on, että vuonna 1992 kiinteistöjen arvot tippuvat vielä 15 prosenttia. Pankkijärjestelmän suorassa omistuksessa on noin 40 miljardin markan edestä kiinteistöjä. Sen lisäksi pankeilla on lainojen vakuutena kiinteistöjä yhtiöissä, joiden oma pääoma on kutakuinkin kulutettu ja jotka ovat siis konkurssin partaalla. Se on ehkä 40, ehkä 60 miljardia markkaa. Tämä 15 miljardia markkaa kerrottuna Bank for international Settlementsin 8 prosentin vakavaraisuusvaatimuksilla merkitsee 12,5 kertaa 15 eli 180 miljardin markan poistumista suomalaisen pankkijärjestelmän luotonantokyvystä 118.000. What that meant is that the banks' balance sheets were unstable and the about FIM 180 billion (about 30 billion) needs to be wiped out by governmental help. This concern was given by bank director Björn Wahlroos, representing the banks. Unfortunately this and all the methods used, touched the entrepreneurs that entrepreneurship does not work in Finland, writes President Koivisto. (Koivisto 1994, 368-369.)

According to the agreement Valtion Vakuusrahoitus; the guarantee fund was to take care of the non-performing loans for banks. There is evidence (not in this work attached) that in cases one loan became two or even three loans or none loan became a loan. The opportunity makes the thief. Banks needed only to give the loan documents and they got their money. Unfortunately this created many bankruptcy entrepreneurs. This again created poor creatures without any kind of possibilities to go on with their lives. The liabilities were way too huge to pay and the business was taken away from them to make any settlement. One loses his credit rating meant that you cannot even get a job, bank account or any credit. This operation cost according to the Bank of Finland (Appendix 5) FIM 256 billion (about p 43 billion). All this money was transformed from the treasury of Finland to the accounts of banks. The thing is that these banks are owned by shareholders, who ever and where ever they are. And the payers are Finnish citizens. There was this one headmaster of a University in Finland who gave an interview in YLE news by the time. He said that there should have been compensation to the Treasury of Finland in a form of shares of the banks. This could have given the Treasury some profit later and helped the Finnish economy. (The news is not available anymore.)

The legality of the operations done by the banks, judiciary, government and other institutions is a question one has to conclude by itself. But if one or some jurists end up to a conclusion that most of that was illegal, the earnings banks got was criminal. And there for also money laundering has occurred.

10 DISCUSSION

There are negative macroeconomic consequences of unchecked money laundering. It challenge strange changes in money demand, risks to bank soundness, contamination effects on legal financial transactions, and increased volatility of international capital flows and exchange rates due to unexpected cross-border asset transfers. It supports corruption and crime and damages the honest society and weakens democracy and the rule of the law. (Financial Action Task Force, FATF, 2012.)

10.1 Dirty money raises inflation, corruption and organized crime

A financial institution must have a reputation for honesty and probity, because they deal with other people's money. The international financial centre can turn into a money laundering haven. Some developing countries take 'dirty money' as a short-term engine of growth, but their problem is to find solid long-term foreign investors. Money laundering can corrode a nation's economy by changing the demand for cash, making interest and exchange rates unstable (volatile), and cause high inflation in countries where criminals are doing business. (UNODC United Nations Office on Drugs and Crime, 2012.) In another word when there is very much cash available and that is easily offered to businesses, entrepreneurs or individuals, it causes inflation.

Money laundering increases corruption and organized crime. Corrupt public officials need to launder bribes, kick-backs, public funds or other 'incomes'. Organized criminal groups need to launder drug trafficking and commodity smuggling earnings. Terrorists groups use same channels to get cash to buy arms. The social consequences are various. Criminals are taking advantages of the globalization of the world economy by transferring funds across international borders.

10.2 The loss of taxes

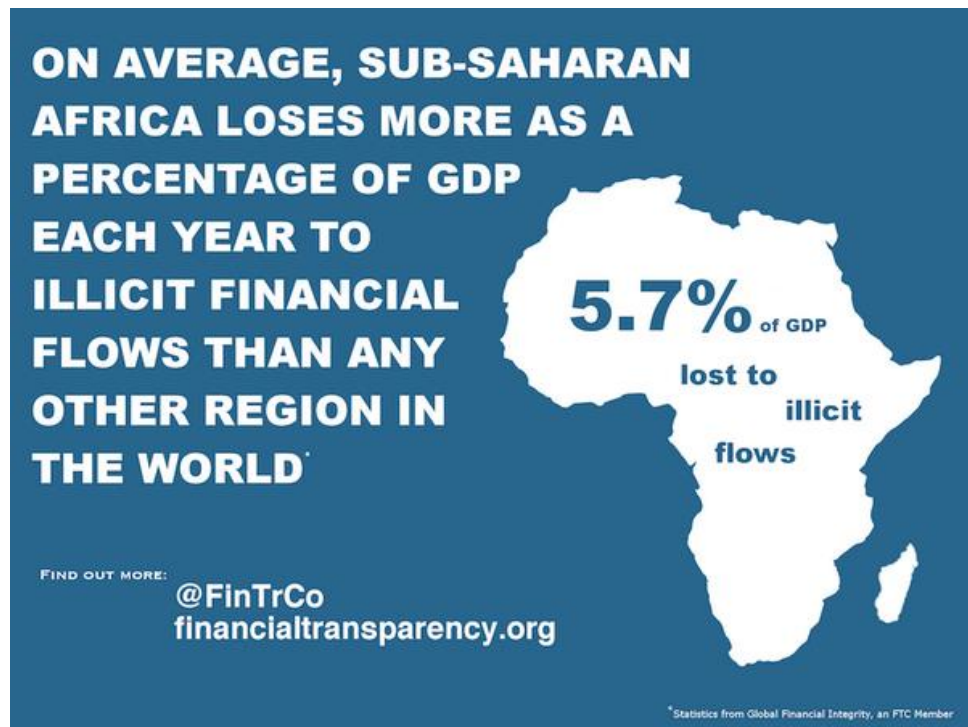


Figure 22 Lost of income and taxes (Financial Transparency Coalition, 2012)

A British judge Lord Templeman has said: "A tax avoidance scheme includes one or more interlinked steps which have no commercial purpose except for the avoidance of tax otherwise payable, and can conveniently be described as artificial steps. A tax avoidance scheme does not leave the taxpayer any better or worse off but leaves the Revenue worse off." (Murphy, 2012.)

Another British judge (Lord Brightman) puts the same thing in words like this; "First, there must be a preordained series of transactions; or, if one likes, one single composite transaction. This composite transaction may or may not include the achievement of a legitimate commercial (i.e.) business end í Secondly there must be steps inserted which have no commercial (business) purpose apart from the avoidance of a liability to tax ó not "no business effect" (Murphy, 2012.)

Richard Murphy FCA, director of Tax Research UK made a research of how much EU loses taxes yearly because of a "shadow" economy. The shadow economy means economy where taxpaying is avoided. The report estimates the total losses to EU Member State Treasures caused by the evasion and tax avoidance. Using consistently credible sources the result of estimated tax losses was approximately €860 billion a year. In Finland the losses were estimated to be €13, 7 billion a year. GDP in Finland year 2010 was about €180 billion. That means that the tax loss is about 17 percent of the annual GDP. In some countries the losses are estimated to be bigger, like all the eastern members (Latvia, Lithuania, Romania, Slovenia) the losses there are average 30 percent of the annual GDP. In Sweden 19 percent, in UK 12,5 percent. (Murphy, 2012.)

Country	GDP 2009	Gov't spending as proportion of GDP	Health care spending as proportion of GDP	Size of Shadow Economy	Tax lost as a result of Shadow Economy	Tax lost as a proportion of tax income	Tax lost as a proportion of government spending	Tax lost on shadow economy as % of healthcare spending
	Euro'm	%	%	Euro'm	Euro'm	%	%	%
Austria	284,000	49.0	11.0	27,548	11,763	9.7	8.5	37.7
Belgium	353,000	50.0	11.8	77,307	33,629	21.9	19.1	80.7
Bulgaria	36,000	37.3	7.4	12,708	3,673	35.3	27.4	137.9
Cyprus	17,000	42.6	6.0	4,760	1,671	28.0	23.1	163.8
Czech Republic	145,000	42.9	7.6	26,680	9,205	18.4	14.8	83.5
Denmark	234,000	51.8	7.0	41,418	19,922	17.7	16.4	121.6
Estonia	15,000	39.9	4.3	4,680	1,680	31.2	28.1	260.5
Finland	180,000	49.5	11.7	31,860	13,732	17.7	15.4	65.2
France	1,933,000	52.8	3.5	289,950	120,619	15.0	11.8	178.3
Germany	2,499,000	43.7	8.1	399,840	158,736	16.0	14.5	78.4
Greece	230,000	46.8	7.4	63,250	19,165	27.5	17.8	112.6
Hungary	98,000	49.2	8.2	23,912	9,445	24.4	19.6	117.5
Ireland	156,000	42.0	7.6	24,648	6,951	15.8	10.6	58.6
Italy	1,549,000	48.8	5.1	418,230	180,257	27.0	23.8	228.2
Latvia	18,000	38.5	8.1	5,256	1,398	29.2	20.2	95.9
Lithuania	27,000	37.4	7.8	8,640	2,532	32.0	25.1	120.2
Luxembourg	42,000	37.2	4.1	4,074	1,511	9.7	9.7	87.8
Malta	6,200	44.8	16.5	1,686	577	27.2	20.8	56.4
Netherlands	591,000	45.9	10.8	78,012	29,801	13.2	11.0	46.7
Poland	354,000	43.3	7.1	96,288	30,620	27.2	20.0	121.8
Portugal	173,000	46.1	11.3	39,790	12,335	23.0	15.5	63.1
Romania	122,000	37.6	5.4	39,772	10,738	32.6	23.4	163.0
Slovakia	66,000	34.8	8.5	11,946	3,440	18.1	15.0	61.3
Slovenia	36,000	44.3	9.1	9,432	3,546	26.2	22.2	108.3
Spain	1,063,000	41.1	9.7	239,175	72,709	22.5	16.6	70.5
Sweden	347,000	52.5	9.9	65,236	30,596	18.8	16.8	89.1
United Kingdom	1,697,000	47.3	9.3	212,125	74,032	12.5	9.2	46.9
Total or unweighted average	12,271,200			2,258,223	864,282	22.1	17.6	105.8

Figure 23 Tax Research 2009 (Murphy, 2012)

The shadow economies of the European Union are more than the cost of health care in Europe; actually it is 105.8 percent of the total health care spending in EU countries. It is an unweighted average cost of 17.6 percent of total government spending in EU member states. That is the biggest single effective cost item for most governments in Europe, average more than 20 percent of total government spending and as a proportion of government revenues that sum lost makes in some cases exceed 30 percent of total income. (Murphy, 2012.)

In Finland it would take 6.5 years to pay the governmental borrowing (year 2010 it was 87 billion) with the tax lost as a result of shadow economy. This research is suggested to be very conservative. A similar re-

search with similar methods estimates a tax lost in the USA \$ 337 billion. The US Internal Revenue Service suggested in January 2012 that the tax gap might be \$ 385 billion in 2006. (Murphy, 2012.)

The Swedish National Tax Agency seems to be too aware of the problem. In their report 2008 "The Gap Map for Sweden" they write: "The uncertainty is considered greatest with regard to the tax gap with international connections and the tax gap for large companies, where there is a not insignificant amount of tax avoidance. In addition to the difficulty of calculating the size of the gap that exists, it is in many respects difficult to decide what a tax gap is. The aim of the companies' measures is often to put them in a grey area where there is no clear answer to whether it is right or wrong. Depending on the assumptions made in the calculations the result may vary by several billion kronor. The Swedish survey identified that tax avoidance is made actively by large companies with their international transactions. They do that especially with the use of tax havens and transfer pricing. (Murphy, 2012.)

Richard Murphy prepared a report on tax avoidance for the UK's Trades Union Congress in 2008 "The Missing Billions". He estimated corporate tax avoidance was about £12 billion a year in 2006 and that individuals avoided £13 billion a year at the same time. The total tax gap was in 2006 in UK £330 billion.

According to the report of GFI China leads the world with its cumulative \$ 1.08 trillion illicit outflows during 2002-2011. In 2011 Russia passed the first time with a loss of \$ 191.4 billion against China's \$ 151.35 billion. The methodology has understated Russia's illicit outflows earlier. (Global Financial Integrity, 2011.)

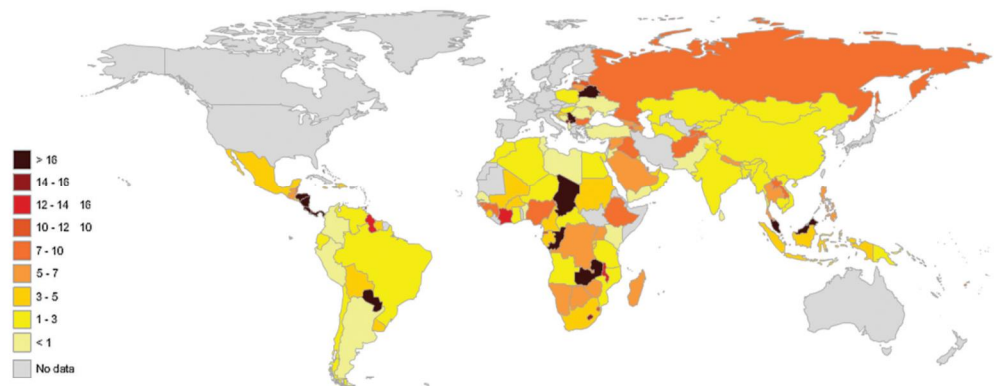


Figure 24 The Heat map of average illicit financial flows to GDP Ratio for Developing Countries, 2002-2011. (Global Financial Integrity, 2011)

10.3 Big get bigger and small struggle or die

As in the Swedish report it was obvious that large international companies have better ways and possibilities to use all the given ways to avoid taxes. With offshore and transfer pricing big corporation have possibility to maximize profits and avoid taxes. The losses means rising tax burden on citizens and offshore freedom degrades to control and coercion at home. (Brittain-Catlin 2005, 89). In 2012 a new director of the Government Institute of Economic Research in Finland Juha Vartiainen states in the newspaper Hämeen Sanomat that we have to work more. He claims that in

Finland there will be a sustainability gap, in Finnish *kestävyysvaje*. In other words there will not be enough tax income. There will be too many retirees and too little work. (Hämeen Sanomat, 2012.) At the same time we read in the research by Murphy that in Finland we lose some €18 billion taxes a year by shadow economy. And that was a conservative estimate.

OECD says that multinational corporations' tax planning harms the tax system in many countries. OECD hopes for a uniform tax system in order to stop the tax avoidance by big corporations. Otherwise the injustice will squeeze the small companies and individuals to pay more and more taxes. The report by OECD 'Addressing Base Erosion and Profit Shifting, 'BEPS'', shows that some of the multinational corporations use strategies that they don't pay more than 5 percent company tax, whereas the smaller companies pay 30 percent tax. 'The Europe and many other governments are on their knees right now. The solution is that all pay equally taxes. Everyone can trust that tax systems are equal and open' says OECD's Secretary-general Angel Gurría. OECD claims that many rules protect the multinational corporations over double taxation and let them avoid paying taxes at all. (Talouselämä, 2013.)

Financial Transparency Coalition is a global network working together and focuses on the international financial system. It studies and publishes report of the financial distortions that harm billions of people. The Coalition advocates five core recommendations to improve transparency and accountability:

1. Curtailment of mispricing in trade imports and exports – this includes both abusive transfer pricing between multinational enterprises and intentionally mispriced transactions between unrelated parties;
 2. Country-by-country accounting of sales, profits, and taxes paid by multinational corporations;
 3. Transparency of beneficial ownership of corporations and trusts;
 4. Automatic cross-border exchange of tax information on personal and business accounts; and
 5. Harmonization of predicate offenses under anti-money laundering laws across all Financial Action Task Force cooperating countries.
- (Financial Transparency Coalition, 2012.)

11 CONCLUSIONS

The cases Parmalat and Enron were scandals at the time they happened. If there wouldn't be any, the reality would be unknown. People are mostly willing to turn a blind eye to fraud and deception. The capitalists, corporate accountants and lawyers and banks don't want to rock the boat. They just want get on with the business. The point at which reengineering becomes fraud is arguable for the defenders of capital. Who will draw the line between legal and illegal activities? (Brittain-Catlin 2005, 162.)

11.1 Political power and bona fide citizen

A Finnish journalist writes in Helsingin Sanomat 2013, that over half of the world's assets are in tax havens. There are both legal and criminal assets. But the thing is that in a way we all are involved with this kind of companies who run their businesses avoiding and evading taxes. He mentions when you buy food, Google it, Face it, fly with Finnair's or SAS's airplanes, visit a private health center, buy gas at Nestes, eat at McDonalds use Fonecta etc. Most of them are at least indirectly dealing with tax havens. The Finnish pension companies like Varma, Ilmarinen directly or through other pension companies have invested billions of Euros in tax havens. (Helsingin Sanomat, Talous, 2013.)

Dictators like Kim Jong-il, Augusto Pinocheti and Muammar Gaddafi are or have been customers of tax havens. Instead of talking about havens more descriptive term is secrecy place. A state in USA Delaware has registered companies like Coca-Cola, Ford, Wal-Mart and the other 300.000 in one and same address 1209 North Orange Street, Wilmington (Häninen & Pietiläinen, 2013.) How is that?

"Corporate wealth translates into political power through campaign financing, corporate lobbying and the revolving door of jobs between government and industry; and political power translates into further wealth through tax cuts, deregulation and sweetheart contracts between government and industry. Wealth begets power, and power begets wealth." These are the words of a highly respected economist from Columbia University. In his book, *The Price of Civilisation* he writes that the US economy is caught in a feedback loop. He names four key sectors that demonstrate this feedback loop and the invasion of political power in America the so called "corporatocracy". The first one is the military-industrial compound. According to Eisenhower in January 1961, the link between the military and private industry created a political power so penetrating that America has been condemned to militarization, meaning useless wars and financial waste on a scale of many tens of trillions of dollars since then. (The Sunday Morning Herald, 2012.)

The second is the Wall Street-Washington complex. It has taken control over the financial system. This is made by few politically powerful Wall Street firms, Goldman Sachs, JPMorgan, Chase, Citigroup, Morgan Stanley and few other financial firms. Almost every US Treasury secretary-Republican or Democrat come from Wall Street and return there when their terms end. The 2008 financial crisis and the mega-rescue operations after that were caused by the uncontrolled deregulation. (The Sunday Morning Herald, 2012.)

Third is the Oil-transport-military complex. US were put on a track of oil imports dependence and deepen even more the military trap in the Middle East. The Big Oil since the days of John Rockefeller and the Standard Oil Trust has given America the policy of vehicle driving by nationally financed highways. The mass transit is not the policy. And the policy does not either support the non-oil energy sources. Pentagon takes care of an annual \$100 billion-plus funding for a fuel that is otherwise dangerous for national safety. Exxon-Mobil, Koch Industries and other oil companies have underwritten an evolution of antiscientific propaganda of the so called climate change dilemma. (The Sunday Morning Herald, 2012.)

Fourth is the healthcare industry. That covers 17 per cent of US gross domestic product, making it the largest industry in America. Sachs says that the industry results a sky-high expensive healthcare system without any political will to reform it. (The Sunday Morning Herald, 2012.)

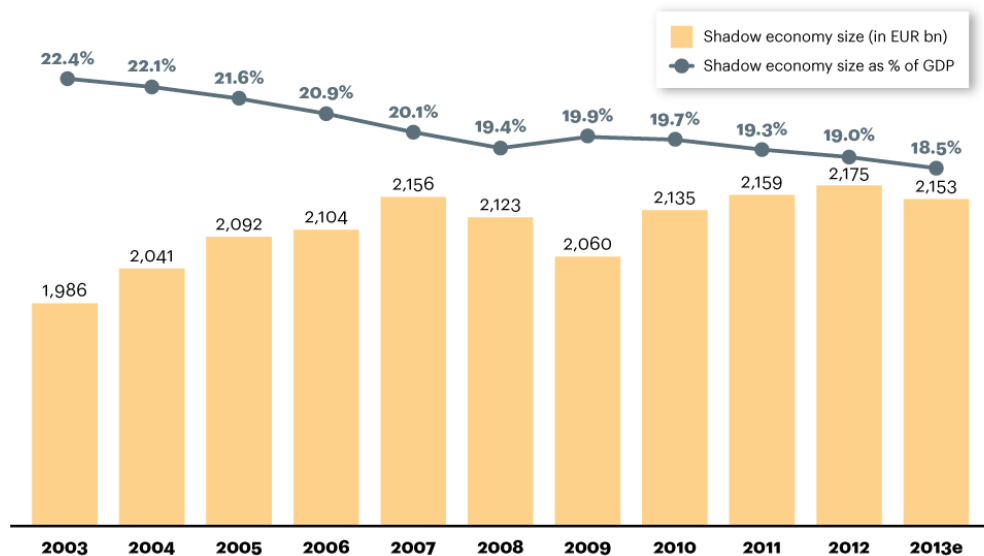
The Columbia University professor Sachs has observed that while several Wall Street firms paid civil penalties for financial abuses during 2010, no senior banker faced any criminal charges. At the same time no new regulations were made in order to reduce the profits in finance, health care, military supplies and energy. One of the tools to achieve the corporatocracy was globalization. It pushed up capital income and down the wages. It was helped by the tax cuts at the top. (The Sunday Morning Herald, 2012.)

Sachs stated in Philadelphia Fed conference in April 2013 "most of the daily business of Wall Street is criminal behavior". The Libor, Abacus scandals, money laundering, insider trading, SEC (Securities and Exchange Commission) charges happen all the time. Defenses and the amount of lobbying are strong. The result is that how this is going to be cleaned up when senior regulatory officials, congressional staff, congressmen and senators are involved in same way or another. The change can only happen by a political movement which is not based on mega-donations and that will win the political control. (Vigna, 2013.)

The European crisis has opened many eyes. Many decision-makers talk publicly about the meaning of tax planning. EU estimated in 2012 December that its member countries loose one trillion Euros worth taxes every year for the cause of all kinds of tax avoidance mechanism. One trillion Euros look like this 1,000,000,000,000.

Figure 2

The development of the shadow economy in Europe



Notes: Data for EU-27 plus Norway, Switzerland, Croatia, and Turkey. The size of the shadow economy is calculated using the MIMIC method.
Source: Dr. Friedrich Schneider, Johannes Kepler University of Linz, Austria; Eurostat; A.T. Kearney analysis

Figure 25 The development of the shadow economy in EU (atkearney.com, 2014)

11.2 Anonymous and corrupters

Like it was mentioned in chapter 3.2 that the British Prime Minister David Cameron in 2013 was concerned about the lack of the knowledge about who are the controllers and true owners of the companies and who gets the profits, beneficial owners. The attempts to get owners names from the tax havens are not successful. Cayman and many other islands (Bermuda, British Virgin Islands, Turks and Caicos Islands and Gibraltar) is a British Overseas Territory. The head of the state in the overseas territories like Cayman is the British monarch, currently Queen Elizabeth II. She has the legislation under her power.

Many countries do not require banks, lawyers and company service providers to identify the beneficial owner of all corporate clients. In the US banks are not required to identify the beneficial owners for all accounts, and lawyers and company service providers do not have to identify their customers at all. (Global Witness, 2013.)

In an idiots guide to launder money was mentioned that one can establish a company with a false ID. The penalty in the UK and U.S. for having fake ID in the form of a passport is up to ten years in prison. But by using certain places and countries one can create the fake ID of a company, and then use this company to hide behind, without getting any penalty by doing so. (Global Witness, Anonymous companies, 2013.)

“If you are an important person, and you work for a big international bank, you won’t be prosecuted even if you launder nine billion dollars. Even if you actively collude with the people at the very top of the international narcotics trade, your punishment will be far smaller than

that of the person at the very bottom of the world drug pyramid.ö Matt Taibbi on the HSBC settlement³⁶. (Global Witness, 2013.)

In the case of BCCI the Bank of England was very unwilling to take a stand to the bank's operations and the warnings they got. The comment afterwards how concerns over some fraud would mean less banks in UK. The investigator of BCCI case district attorney Morgenthau told about the resistance of doing something about offshore possibilities. He has tried to press four of the US Secretary of the Treasury. öFew years ago I gave a speech over offshore-money and I saw only glazed eyes and no interest". (Shaxson 2011, 152.)

Robert Mazur an American agent risking his life for five years as being undercover infiltrating in Columbia. He had to change his identity, leave his family and be as one of the member of the Colombian's drug cartel. In chapter 4.5 he tells the true thing about FED (The Federal Reserve Bank) being the biggest money launderer in U.S. In the book he writes how floored he was about the news. "Why were we risking our lives?ö He felt betrayed by his country and thought how naive they were thinking they would make a difference. BCCI got caught thanks also to Mazur's material. Many cartel bosses were caught thanks to him. Yet he writes in the book *Infiltrator* " Life has changed for the players in this story, but little has changed in the world of international drug trafficking. It's like men's ties. Some years they're wider, some years they're thinner, but they're all still ties. As long as a demand exists, the underworld will make adjustments to maximize its profits. Colombian cartels less frequently bring cocaine to your neighborhood. Instead, they've become mass producers, feeding hundreds of tons of it to Mexican cartels that taken on a bigger role moving it across the border and distributing it to the never-ending glut of consumers in U.S. The men in Medellin and Cali know that Mexican corruption will always ensure safe transport. What happens after that isn't their problem. But billions of dirty dollars still flow back and forth, and the same banks are still washing untold wealth. ö (Mazur, 2009, 341.)

Money launderers, corrupt politicians, terrorists, arm traffickers, drug smuggler, and tax evaders all utilize the possibility to have company structures that allow them to hide their identity, and banks and other professionals are happy to do business with them. This is currently very much available. (Global Witness, Anonymos companies, 2013.)

11.3 Small and medium enterprise

Small and medium-sized enterprises (SMEs) definition is that it has less than 250 employees, and its annual turnover does not exceed p 50 million, or the annual balance-sheet is p 43 million or less. They are not owned as to 25 per cent or more of the capital or the voting rights by one enterprise or joint by several enterprises. (Tilastokeskus, 2014.)

The Federation of Finnish Enterprises has calculated that in 2012 the average tax rate the entrepreneurs paid was 33, 2 per cent. The same average for an employee was 28 per cent. This is counted from statistics over all

the entrepreneurs that pay the self-employed insurance (YEL). According to the report an average income (turnover) for the entrepreneurs was 44.974 Euros per year. (Malinen, 2014.)

There are many regulations to follow and an audit trail booking to do. The companies pay and report the value add tax. To follow these regulations are costly and take a lot of time.

On the other hand there is a company which makes its income via a tax haven or with transfer pricing regulations or makes everything criminally and give the slightest thought about the regulations or taxpaying. How equal are these two companies, a company which pays taxes and follow all the regulations and the one which does not have to follow anything nor pay anything. Which one has better opportunity to grow and make profit? In the perspective of a micro economy there is a heavy tax and regulation load for some to carry. In the perspective of a macro economy the market structure changes towards big companies with better investing possibilities and also the market is run by owners of the money. Even there is always small companies the profit making is not as easy and they most often are depending of the big companies as subcontractors or other small players in a big business.

11.4 Political risk

Companies make risk analyzes of all kinds. This thesis is about money laundering as a phenomenon. Talking about tax avoidance and evasion, which is which? What is legal and what is illegal? How equal is the market? Is it a question of a political risk, if politics is run by those who have power and money?

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When talking about money laundering, we learned that it needs an illegal action. After that the illegal actions need to be hidden/ faded so that the origins do not become clear. One way to do an illegal act is to evade taxes. That is by the definition illegal and therefore the income is criminal and needs to be laundered. So that the earnings look legal.

We learned here that there are tax avoidance cases where it is questionable to draw the line if it is legal or illegal. Those cases were called arbitrage, questionable legally and even more so ethically and for the good of equal opportunities. The ways are made legal by the power of money. There comes in the terms tax avoidance and tax evasion. Legal and illegal ways not to pay taxes. Why is one better than the other? The result is still the same. The companies, institutions and individuals do not report the avoidance out loud. Instead they use all needed energy and intelligence to hide that. They use tax havens, their covering secrecy laws, complicated structures to hide the true beneficial owner and they have by all means a strong support by governments and politicians. Many companies give their annual reports and show a huge income but none tell how much is moved to safe places in order to avoid taxes. Why, if that is legal?

We learned that the global well-being loses a lot by tax evasion as well as by the avoidance. Money laundering is counted to be something like 5 % of the global GDP per year. This means that globally there is a huge amount of taxes lost every year. Then there is the arbitrage world the "shadow economy" which either pays no tax. Here it was mentioned that only in EU Member States the loss of taxes were approximately € 860 billion a year. In Finland year 2010 about € 13,7 billion meaning about 17 percent of the annual GDP. Also meaning that it would take 6.5 years to pay the governmental borrowing (year 2010 it was € 87 billion) with the tax lost as a result of shadow economy. During the time this work has been made, the world's economy is collapsing. EU countries like Finland are collapsing. The state cash flow requires cutbacks from the social welfare. Also more taxes need to be paid by those who generally pay them. Why do we not make changes so that the shadow economy would be illegal?

When talking about the more traditional and known side of money laundering, the question is, why is it so hard to stop? There are institutions of all kinds with governmental members but hardly any results to stop it.

This work is to open the term money laundering in a wider context. The true meaning is to give a wider perspective of the economy system. In the macro perspective the humanity and in micro perspective an individual a small entrepreneur have not equal opportunities. The tax losses are huge globally and the shadow economy has better chances to grow and govern now and in the future. Unless changes are made by making new laws and better control.

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14 APPENDICES



SALAINEN

Luovutussopimus

1. Sopijapuolet

- 1.1 Suomen Säästöpankki - SSP Oy, jäljempänä SSP.
- 1.2 Kansallis-Osake-Pankki, jäljempänä KOP,
Osuuspankkien Keskusliitto siihen kuuluvien ja
myöhemmin erikseen ilmoitettavien jäsenpankkiensa
puolesta ja lukuun, jäljempänä OKL,
Postipankki Oy, jäljempänä PSP ja
Unitas Oy omasta ja tytäryhtiönsä Suomen Yhdys-
pankki Oy:n puolesta, jäljempänä SYP.
KOP, OKL, PSP ja SYP kaikki yhteisesti jäljempänä
Ostajat.
- 1.3 Suomen valtio
- 1.4 Valtion vakuusrahasto, jäljempänä VVR

2. Sopimuksen tausta ja tavoitteet

VVR ja Ostajat ovat yksimielisesti todenneet, että Suomen pankkitoiminnan rakenne ei vastaa tulevaisuuden sille asettamia vaatimuksia, minkä vuoksi on välttämätöntä ryhtyä voimakkaisiin toimenpiteisiin pankkien kannattavuuden parantamiseksi, kustannustason alentamiseksi sekä kilpailukyvyn tehostamiseksi.

Tämän vuoksi VVR ja Ostajat ovat yksimielisesti hyväksyneet tässä luovutussopimuksessa määritellyt tavoitteet, joilla toteutetaan hallittu pankkijärjestelmän rakennemuutos sekä edistetään pankkijärjestelmän tehokkuutta alan ylikapasiteettia purkamalla.

Sopimusjärjestelyllä on myös toimialan kilpailutilanteeseen positiivinen vaikutus. Sopimusjärjestely on kilpailullisesti neutraali ja järjestely ehkäisee mahdollisiin tukitoimiin perustuvan toimialan epäterveen kilpailun.

SSP:n ja SKOP:n keskinäiset velka- ja vastuusitoumukset erääntyvät niitä koskevien sopimusten mukaisesti. SKOP ja SSP eivät irtisano asiakkaitaan koskevia sopimuksia pelkästään tästä sopimuksesta aiheutuvien järjestelyjen perusteella.

Ostajat ja VVR ovat laatineet liitteenä 7 olevan muistion, jossa mainituilla periaatteilla on tarkoitus turvata ja määritellä SKOP:in pankkistatus sen jälkeen kun SSP:n ja SKOP:in keskinäiset vastuut ja pankkitoiminnalliset yhteydet on purettu.

12.

Määritelmät

12.1

Saamisen määritelmä

Saamisella tarkoitetaan tässä luovutussopimuksessa kaikkia saamisia ja muita vastuuta niiden perusteesta, muodosta, erääntymisestä ja valuuttasidonaisuudesta riippumatta. Saaminen voi olla esimerkiksi kauppahintasaaminen.

Tässä luovutussopimuksessa saamisilla tarkoitetaan aina asiakaskokonaisuuden saamisia.

12.2

Järjestämättömän saamisen määritelmä

Järjestämättömällä saamisella tarkoitetaan tässä luovutussopimuksessa kaikkia saamisia, joiden lyhennys tai korko on ollut maksamatta vähintään 90 päivää eräpäivän jälkeen ja on edelleen maksamatta. Myös konkurssiin tai selvitystilaan asettaminen tai velkajärjestelyn/yrityssaneerauksen hakeminen aiheuttavat sen, että saaminen katsotaan järjestämättömäksi, ei kuitenkaan silloin jos velkajärjestelyn/yrityssaneerauksen käynnistäjänä on ollut Ostaja tai sen vaikutusvaltaan kuuluva yhteisö. Vaikutusvallan tuottavaksi ei kuitenkaan katsota pelkästään velkasuhdetta Ostajaan.

Järjestämättömään saamiseen kuuluvat myös saamisen korot, provisiot tai muu vastaava tuotto.

12.3

Yrityssaamisen määritelmä

Yrityssaamisella tarkoitetaan tässä luovutussopimuksessa SSP:n myöntämää saamista, jonka velallinen on SSP:n ly-tunnuksen omaava asiakas, mukaanlukien maatilatalouden harjoittaja.

Tällaista asiakasta pidetään tässä luovutussopimuksessa yritystoiminnan harjoittajana.

12.4

Asiakaskokonaisuuden määritelmä

Asiakaskokonaisuudella tarkoitetaan tässä luovutussopimuksessa yritystoimintaa harjoittavaa velallista, ja seuraavia velalliseen liittyviä tahoja:

- velallisen merkittävät omistajat (omistus vähintään 20 %) ja kommandiittiyhtiössä vastuunalaiset yhtiömiehet sekä avoimessa yhtiössä yhtiömiehet;
- velallisen kanssa samaan konserniin kuuluvat yhteisöt, jolloin konserni määritellään kirjanpitolain mukaisella tavalla;
- velallisen sisaryritykset eli velallisen omistajien yli 50-prosenttisesti omistamat yritykset;
- yritykset, joista velallinen joko suoraan tai välillisesti omistaa vähintään 20 % ja kommandiittiyhtiöt, jos velallinen on vastuunalaisena yhtiömiehenä ja avoimet yhtiöt, jos velallinen on yhtiömiehenä; sekä
- muut velalliset, joilta olevissa saamisissa on sama vakuus kuin velallisen tai yllä todettujen tahojen saamisissa. Jos sama vakuus on luonnollisen henkilön takaus, myös takaaja kuuluu asiakaskokonaisuuteen.

Asiakaskokonaisuus määritellään aina ostajakohtaisesti.

12.5

OmaisuuDENHOIToyhtiöön/taselainaukseen siirtyvä yrityssaaminen

Jos yksi velallisen saaminen on järjestämätön, omaisuudenhoitoyhtiöön/taselainaukseen siirtyvät kaikki velallisen asiakaskokonaisuudelta olevat saamiset.

13.

Omaisuu denhoitoyhtiö

13.1

Omaisuu denhoitoyhtiön perustaminen

Omaisuu denhoitoyhtiö perustetaan valtion vakuusra-
hastosta annettavan lain mukaisesti omistamaan ja
hallinnoimaan SSP:stä erotettavia ja jäljempänä
13.2 kohdassa mainittuja SSP:n omaisuu suseriä, luot-
toja ja muita vastuuta.

VVR tai Suomen valtio on omaisuu denhoitoyhtiötä
perustettaessa sen ainoa osakkeenomistaja. VVR:llä
on oikeus hoitaa ja hallinnoida yhtiötä parhaaksi
katsomallaan tavalla.

Ostajat sitoutuvat, mikäli VVR niin haluaa, otta-
maan hoitaakseen yhtiön juoksevan toiminnan. Asi-
oiden käytännön hoitoa varten ja parhaan mahdolli-
sen perintä- ja hoitotuloksen aikaan saamiseksi
yhtiön henkilökunta palkataan SSP:n henkilöstöstä
tai muualta sen mukaan kuin havaitaan tarpeelli-
seksi.

Ostajat eivät ota vastatakseen omaisuu denhoitoyh-
tiön toiminnan kuluista.

13.2

Omaisuu denhoitoyhtiöön siirrettävät tase-erät

13.2.1

Siirrot per 15.10.1993

SSP:n liiketoiminnan ja osakkeiden kauppa edellyt-
tää, että SSP:n taseesta ja taseen ulkopuolisista
eristä siirretään omaisuu denhoitoyhtiöön kirjanpi-
toarvosta 15.10.1993 tilanteen mukaisena jäljempä-
nä mainitut omaisuu suserät, saamiset ja vastuut.

1 1 milj. mk:n ja sen ylittävät järjestämättömät
yrityssaamiset

2 Seuraavat huonotuottoiset saamiset vaikka ne eivät
olisikaan järjestämättömiä

- 1 milj. mk:n tai sitä suuremmat yritys-
saamiset, jos yksikin yrityssaaminen on
koroton tai vuotuiselta koroltaan alle 5
%

- yrityssaamiset, jos lainanhoitokyvyttö-
myydestä johtuen yhdenkin saamisen korko

on lisätty pääomaan tai koronmaksuun on myönnetty uusi luotto.

- 3 Kiinteistöt ja kiinteistö- ja asunto-osakeyhtiöiden osakkeet sekä luotot tai muut saamiset, jotka on myönnetty niille tässä ja kohdan 14.2.1 kohdassa 4 tarkoitetuille yhtiöille, joiden osakkeet siirretään omaisuudenhoitoyhtiölle. Vaihtoehtoisesti VVR myöntää mainittujen saamisten maksamisesta takauksen.
- 4 SSP:n käyttöomaisuuteen luettavat osakkeet, lukuunottamatta SP-Palvelu Oy:n osakkeita.
- 5 Saatava Sparbanksstiftelse Abolandilta.
- 6 SSP:n tase-erä "muu omaisuus".

Edellä mainitut erät siirretään omaisuudenhoitoyhtiön vastattavaksi mahdollisimman pikaisesti, kuitenkin viimeistään vuoden 1994 helmikuun loppuun mennessä.

Omaisuudenhoitoyhtiö maksaa sen osuuden edellä mainituista eristä, joita ei rahoiteta omaisuudenhoitoyhtiön omalla pääomalla, SSP:lle antamalla SSP:lle niiden kirjanpitoarvoja vastaavan määrän lyhytaikaisia markkinaehtoisia velkakirjoja. Velkakirjojen erääntyessä Ostajat rahoittavat suoraan omaisuudenhoitoyhtiötä kohdassa 13.4 esitetyllä tavalla.

13.2.2

Siirrot per 31.12.1994

Ostajilla on oikeus tilanteen per 31.12.1994 mukaisesti siirtää kirjanpitoarvosta omaisuudenhoitoyhtiön vastattavaksi seuraavat erät:

①

1 milj.mk ja sen ylittävät järjestämättömät yrityssaamiset

②

Sellaisilta ilmeisiltä riskiasiakkailta olevat saamiset, jotka täyttävät seuraavat kriteerit:

- a) vuoden 1994 aikana päättyneen tilikauden tilinpäätöksen perusteella laskettu kokonaispääoman tuotto on negatiivinen ja omavaraisuusaste on alle 5 %;

jos yritysasiakkaan vuoden 1994 aikana päättyneen tilikauden tilinpäätöksen perusteella laskettu kokonaispääoman tuotto on negatiivinen tai omavaraisuusaste on alle 5 %, ratkaisee jäljempänä mainittu

tarkastustoimikunta sen, onko kyseessä ilmeinen riskiasiakas, jonka saamiset on siirrettävä omaisuudenhoitoyhtiön vastattavaksi;

tai

- b) asiakas toimii, asiakkaan päätoimialan mukaan luokiteltuna, jollakin seuraavista toimialoista

- kiinteistösijoittaminen ja kiinteistösijoittamiseen verrattava kiinteistötoiminta
- muu sijoittaminen
- rakentaminen
- vähittäiskauppa
- hotelli- ja ravintolatoiminta
- vapaa-aikatoiminta

*kuittaaminen
pääteille*

ja asiakkaan saamiset ylittävät 5 milj.mk ja on todennäköistä, että saaminen muuttuu 31.3.1995 mennessä järjestämättömäksi tai 31.12.1995 mennessä luottotappioksi tai

- c) asiakkaalta on vähintään 5 milj.mk:n saaminen, joka erääntyy maksettavaksi viimeistään 31.12.1997 ja jonka viimeinen lyhennyserä on vähintään 80 % saamisen alkuperäisestä määrästä. C-kohdan tarkoitamisissa tapauksissa Ostajan tulee osoittaa ja jäljempänä mainitun tarkastustoimikunnan hyväksyä se, että kysymyksessä on Ostajalle ilmeinen riski.

*Ostaja perustettu
toimintatila
?*

Sen seikan selvittämiseksi, ovatko Ostajat yksittäistapauksessa oikeutettuja saamisten siirtoon edellä kohdassa 2 mainittujen kriteerien pohjalta, asetetaan VVR:n ja Ostajien yhteinen tarkastustoimikunta, johon VVR asettaa neljä (4) jäsentä ja kullekin varajäsenen ja kukin Ostajista yhden (1) jäsenen ja kullekin varajäsenen. Puheenjohtajaksi valitaan kaikkien sopijapuolten luottamusta nauttiva puolueeton asiantuntija.

Edellä kohdassa 1 tarkoitetut erät siirretään omaisuudenhoitoyhtiön vastattavaksi mahdollisimman pian, kuitenkin viimeistään vuoden 1995 helmikuun loppuun mennessä. Ne järjestämättömät saamiset, jotka perustuvat konkurssiin tai selvitystilaan asettamiseen taikka velkajärjestelyyn/yrityssaneeraukseen voidaan kuitenkin siirtää omaisuudenhoitoyhtiön vastattavaksi sitä mukaa kuin saamiset tulevat järjestämättömiksi.

///

29

yksi PSP:lle, yksi SYP:lle, yksi VVR:lle, yksi
SSP:lle ja yksi Suomen valtiolle.

Helsingissä 14. päivänä lokakuuta 1993

KANSALLIS-OSAKE-PANKKI

OSUUSPANKKIEN
KESKUSLIITTO

POSTIPANKKI OY

UNITAS OY

VALTION VAKUUSRAHASTO

Helsingissä 22. päivänä LOKA kuuta 1993

SUOMEN SÄÄSTÖPANKKI - SSP OY

KLO 15.45

SUOMEN VALTIO

KLO 16.10

Appendix 2

OIKEUSPOLIITTINEN KESKUSTELUTILAISUUS LINNASSA KE
6.5.1992 KLO 19.00 ALKAEN

- 1 Tasavallan Presidentti on päättänyt järjestää oikeuspoliittisen keskustelutilaisuuden tuomioistuinlaitoksen, yliopistojen ja tutkimuslaitosten edustajien kanssa. Teemoina ovat tuomioistuinten yhteiskunnallinen vallankäyttö ja riippumattomuus sekä tuomioistuinten toiminnan arviointi ja arvostelu. Keskustelu rakentuu ensimmäisen teeman osalta kahteen valmisteltuun puheenvuoroon ja toisen teeman osalta yhteen valmisteltuun puheenvuoroon (yhteensä noin 30 min) sekä kummankin teeman osalta 2 - 3 valmisteltuun kommenttipuheenvuoroon (yhteensä noin 30 min). Lisäksi pankkitarkastusviraston johtaja Jorma Aranko käyttää valmistellun puheenvuoron (noin 10 min) em alustusten jälkeen tai keskusteluosuuden alussa.

- 2 Tuomioistuinten yhteiskunnallinen vallankäyttö ja riippumattomuus

Alustus: Korkeimman oikeuden presidentti Olavi Heinonen ja korkeimman hallinto-oikeuden edustaja hallintoneuvos Pekka Hallberg tai hallintoneuvos Sakari Sippola (Suviranta on ulkomaanmatkan takia estynyt osallistumasta 6.5.1992).

OK Kommentit: professori Allan Rosas, AA

OK (16.4.2002) professori Heikki Ylikangas, HY

2. julk. alk.

OTT, tutkija Martin Scheinin, SA

kat 921/342915

ylö 1913140 + 7541710

MA 27.4 tak. (matkalla) mibry

- 3 Tuomioistuinten toiminnan arviointi ja arvostelu

OK Jukka Pöyhönen

OK Alustus: professori Aulis Aarnio, TY

b. 634542 työ 1912806

ylö 981/156989 kat ei koton

771047 (mibry)

[16.4. OK

Kommentit: Apulaisprofessori Jukka Kekkonen, HY

1911/02 tammikuun alk.

OK. Erikoistutkija Jyrki Tala, OPTL

712 kat + työ

kat 670478 /04 1825409

JAKELU: Aranko (PTV), Heinonen (KKO) ja Suviranta (KHO)

9L OK

2 EJT

Suviranta
28.4. lyh. alk.
4.5.26. on 27.4. koton

6.5.92

x 603621

- 4 Tilaisuuteen osallistuisivat edellä mainittujen lisäksi Tasavallan Presidentti, Rouva Koivisto, kansliapäällikkö Jaakko Kalela, adjutantti ja erityisavustaja Martti Manninen sekä seuraavat henkilöt:

Professori Leena Kartio (TY), professori Olli Mäenpää (HY), do-
sentti Juha Pöyhönen (HY), professori Kirsti Rissanen (HY), pro-
fessori Kaarlo Tuori (SA), tutkija (OTL) Veli-Pekka Viljanen
(OM), kihlakunnantuomari Markku Arponen (Rovaniemen tuomiokun-
ta), ylituomari Olli Karikoski (Oulun LO), pormestari Juha Kettunen
(Kuopion RO), presidentti Esko Kilpeläinen (Itä-Suomen HO), oi-
keusneuvos Per Lindholm (KKO), presidentti Erkki Rintala (Vaasan
HO), apulaisprofessori Antti Kivivuori (HY), professori Jaakko Ue-
tila (TY), oikeusneuvos Erkki-Juhani Taipale (KKO) ja asianajaja
(1.5.1992 lukien oikeusneuvos) Mikko Tulokas. [= 31] ko# 692,3887

- 5 Korkeimman oikeuden presidentti Olavi Heinonen toimii tilaisuuden puheenjohtajana.

- 6 Tasavallan Presidentti haluaa keskustella seminaarista Heinosen kanssa jonkin aikaa ennen seminaaria ja ottaa Heinosen vastaan Lin-
nassa myöhemmin sovittavana aikana.

Martti Manninen
Erityisavustaja

Tuomiokunnan ylituomari 931 - 156111

Tuomiokunnan ylituomari 921 - 63351

Lappeen ylituomari 960 - 3241

Uuden ylituomari 1911

OK. Pöyhönen to
Kettunen
Taipale
Tulokas pe 92

Hyvä Kalevi Kannus

Sivu 1/2

Appendix 3

Hyvä Kalevi Kannus

Muistelen, että tilaisuuden tarkoitus oli tasavallan presidentin ja - mikäli mahdollista - mukaan kutsuttujen henkilöiden arvovalalla painostaa Korkein oikeus tekemään Koiviston mieleinen ratkaisu pankkeja koskevassa asiassa.

Koivisto puolsi kantaa, jonka mukaan pankeilla pitäisi olla oikeus yksipuolisesti nostaa lainakorkoa. Korkeimman oikeuden presidentti Olavi Heinonen oli kuitenkin teettänyt lainanottajan oikeuksia puoltavan päätöksen KKO:ssa ennen kokousta, mistä Koivisto oli selvästikin näreissään.

Minulta ei ollut pyydetty valmistettua puheenvuoroa. Käytin kuitenkin keskustelussa puheenvuoron, jossa käsittelemäni tuomioistuinten merkitystä valtiota muodostavina instituutioina historiassa ja EU:n toiminnassa. Ennakkotapauksin ohjataan kehitystä haluttuun suuntaan ja luodaan oikeudellista massaa, josta kodifikaatioin tiivistetään yleiset ja perustuslait. Minä olin ymmärtääkseni tullut kutsutuksi merkittäviksi arvioitujen juristien mukana laskien minut kuuluvaksi samaan joukkoon, vaikka itse asiassa olen historioitsija. Silloin olin oikeushistorian professori oikeustieteellisessä tiedekunnassa. Aika huomattava osa läsnäolleista myötäili Koivistoa. Näin tämä oli nähtävästi etukäteen olettanut ja oli siinä oikeassa. Itse tuin Heinosta. Tilaisuudessa ei päädytty mihinkään erityiseen tulokseen, koska päätös, johon haluttiin vaikuttaa, oli jo tehty.

Tilaisuus ymmärtääkseni vahvisti Koiviston asemaa suhteessa juristeihin. Hänen mahdollisia nuhteitaan pelättiin. Koivistoa siis myötäiltiin enemmänkin pelosta kuin uskosta tämän argumenttien oikeudelliseen pätevyYTEEN.

Olen ottanut vapauden lähettää tekstin Jukka Kekkokselle, joka oli alustaja ja nuorempana miehenä muistaa asiat paremmin.

Terveisin

Heikki Ylikangas